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# **Anti-Drunk Driving Program Initiatives: A Prospective Assessment of Future Program Needs**



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**ANTI-DRUNK DRIVING PROGRAM INITIATIVES:  
A PROSPECTIVE ASSESSMENT OF FUTURE PROGRAM NEEDS**

David Bragdon  
John Grant

National Commission Against Drunk Driving  
1140 Connecticut Avenue, N.W.  
Suite 804  
Washington, D.C. 20036

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## EXECUTIVE SUMMARY

In 1983 the Presidential Commission on Drunk Driving issued its final report. The report presented a multifaceted strategy for reducing drunk driving and contained 39 recommendations which states and communities were urged to implement. As the permanent successor body to the Presidential Commission, the National Commission Against Drunk Driving (NCADD) was charged with monitoring the implementation of those 39 recommendations. In January 1989 the NCADD completed its fifth full year of existence. After five years of activity, questions naturally arose: Have our efforts been successful? Have the Presidential Commission recommendations been implemented? Have they proven effective? To answer these questions, we undertook this project.

The purpose of this project is to review what has occurred at the state and local level since the publication of the Presidential Commission's report five years ago, to identify the countermeasures that have been implemented, the problems that have been encountered, and the programs that are still required to bring about further reductions in drunk driving crashes. In undertaking this investigation of state and local activities, we sought to answer four questions:

- 1) To what extent have the Presidential Commission recommendations been implemented?
- 2) What obstacles have been encountered in efforts to implement drunk driving countermeasures?
- 3) How can these obstacles be addressed and overcome?
- 4) What else is needed to bring about further reductions in the incidence of drunk driving?

The report is divided into four main sections. In the first section, we assess the progress that states and communities have made in implementing the 39 PCDD recommendations, presenting this information in a variety of charts and graphs. Following that, we relate our findings about the perceptions of state officials and leading citizen activists. From these findings, we isolate four major obstacles that hinder attempts to reduce drunk driving and deserve priority attention. Finally, we offer our recommendations on how these major obstacles might be overcome, along with some further suggestions for drunk driving initiatives.

The Presidential Commission report proposed many legislative changes. In 1985 the NCADD selected 19 of these recommendations and began tracking them annually on a state-by-state basis. The results of this tracking appear in the chart on page 11.

Of the 19 countermeasures, only one - a minimum drinking age of 21 - has been implemented in all 50 states. Between 1985-88, 26 states raised their minimum drinking age so that a national uniform minimum of 21 now exists. Substantial progress also has been made in a number of other areas. Since 1985, 38 states have passed mandatory safety belt usage laws (although four states - Massachusetts, Nebraska, North Dakota and Oregon - subsequently repealed them), 21 states have passed victim compensation legislation, and 15 states have authorized administrative license suspensions for drivers who fail an alcohol breath test. (See page 8, Tables 1 and 2)

Unfortunately, many other important countermeasures are not yet in place. More than half of the states still do not have an open container law, and only three states have passed such a law since 1985. Other countermeasures such as anti-plea bargaining statutes, mandatory alcohol evaluations, and preliminary breath test laws similarly have received scant legislative attention in the past five years.

Statistically, we are about two-thirds of the way toward our goal of seeing the 19 priority countermeasures implemented by all 50 states. Overall, each of the 19 countermeasures has been implemented by an average of 32 states. This, of course, is only a statistical average; in actuality, there are wide variations in the degree to which the countermeasures have been implemented. Nonetheless, it does represent an encouraging improvement since 1985, when each countermeasure had been implemented, on average, by 23 states.

Changes in the law, however, were only one part of the the Presidential Commission's broad-based plan to combat drunk driving. Advocating a systems approach, it encouraged the implementation of a wide range of public and private sector initiatives. To assess the degree to which these recommendations have been implemented, the NCADD surveyed several hundred state leaders in 1989, obtaining their perception of what is in place, what is working, and what is not working. This report provides an opportunity to analyze those findings.

The general tenor of the survey responses was positive; most respondents indicated that progress had been made in their state over the past five years in combatting drunk

driving. Four significant problem, however, were cited repeatedly: a lack of funding; an overburdened court and correction system; a persistent problem of recidivism; and the need for effective enforcement. The NCADD believes that future efforts to reduce drunk driving must focus on addressing these four crucial obstacles. In the section entitle "Recommendations" we offer our suggestions on what can be done to overcome these four problems.

A review of all the evidence before us suggests that progress has been made in the past five years, although the pace of change may have slowed since the early 1980's when the problem of drunk driving first burst into public consciousness. In terms of both implemented countermeasures and alcohol-related traffic fatalities, the situation is better today than it was in 1985. Our challenge now is to maintain a continued focus on the issue, ensuring that the progress we have made is not reversed, that the momentum gained is not lost, and that the problem of drunk driving, having once been brought to the fore, does not now recede from the public eye.

While this study is intended to be a follow-up to the Presidential Commission report, it shares a number of objectives with the Alcohol Safety Action Program of the 1970's. Among the ASAP objectives were two which are particularly relevant to this NCADD study. They were: 1) to demonstrate program feasibility and methodology, and 2) to document the legal, administrative, and political problems associated with implementation of the countermeasures. It is our hope that this report advances those objectives, objectives which as long as twenty years ago were recognized to be of preeminent importance in the battle to reduce drunk and impaired driving.

## INTRODUCTION AND METHODOLOGY

In 1983 the Presidential Commission on Drunk Driving issued its final report and, in doing so, launched the existence of the National Commission Against Drunk Driving. The Presidential Commission Report contained 39 recommendations which it challenged states to implement within ten years. As the NCADD entered its fifth full year in 1988, it became apparent that a study was needed to review the progress states had made in implementing these recommendations and to assess the problems and obstacles which hindered attempts to combat drunk driving. The National Commission approached both the National Highway Traffic Safety Administration (NHTSA) and corporate supporters about funding for such a project, and both sources generously agreed to help underwrite the cost of the project. Corporate contributions supported the first phase of the project which consisted of surveying and interviewing several hundred state officials and organization leaders whose work involved them in the issue of drunk driving. A grant from NHTSA provided us with the funds to analyze the data we collected and prepare this report.

The protocol employed in this report is a loose triangulation approach (Jick, 1979). Triangulation is defined as "the combination of methodologies in the study of the same phenomenon" (Denzin, 1978). In this project, the general concept associated with triangulation, rather than triangulation in its strictest interpretation, was employed.

The elements of this triangulation approach consisted of the results of a survey, reactions from an Advisory Committee, information gathered from telephone interviews, insights gleaned from a review of state task force reports,

and state statistical data compiled by the NHTSA Center for Statistics and Analysis.

### I. The Survey

To gather insights about the alcohol-impaired driving countermeasures in the 50 states, the District of Columbia, and Puerto Rico, the National Commission identified 13 categories of state officials whose work involved them in activities relating to drunk driving, along with the state leaders of private organizations such as MADD, RID and AAA. With funds from our corporate donors, an expanded version of the NCADD's annual survey was distributed to a total of 1,055 individuals from these organizations and agencies. Responses were received from 264 people, representing a twenty-five percent response rate. (See the Section entitled "Findings" for a list of these officials and the percentage of responses from each.)

Analysis of this survey data was performed and a summary of response patterns prepared for the Advisory Committee meeting which was held in Washington, D.C. on September 8, 1989. At that time preliminary results were distributed, and the Advisory Committee members were asked for their reflections on these results. The final survey results, which do not differ substantively from the preliminary results, are included in Appendix 6 of this report.

One of the goals of this research was to permit those whom we surveyed to express in their own words the problems they encountered and the recommendations they would make. Every effort was made to permit them to speak for themselves, rather than guiding them toward preconceived

responses. For this reason, the survey included numerous "open-ended" questions rather than a strictly "multiple choice" format. The result was an exceptionally rich collection of information which has been compiled and submitted as a separate Addendum to this report.

The practical consequence of such an approach made it necessary for the NCADD researchers to collapse the responses and develop a system of codes based on an interpretation of the responses. This process began with a compilation of the respondents' actual answers for each of the 35 open-ended questions. These responses then were analyzed and similar responses grouped together into "libraries" of the most commonly cited responses. The wording of the library responses was made by the NCADD staff in an attempt to synthesize the variety of individual responses that appeared on the surveys. A sample of these libraries of responses appears in Appendix 5.

The data provided by the survey was analyzed in several ways. First, all responses were aggregated and the results reported. It is this data which was presented to the Advisory Committee and which appears on the survey instrument included in Appendix 6. Afterwards, the responses to the questions were broken down by state to obtain the views of the respondents in each state. This information is presented in Chart II containing the 39 Presidential Commission recommendations which begin on page 18 and in Appendix 4 where the responses to a set of questions are reported by state. In reporting data by state, we occasionally encountered the problem of an insufficient number of survey responses for a particular question. When this occurred, we decided not to report any response if less than three respondents answered

the question. In these cases we have used the sign "N" to indicate insufficient data.

## II. Telephone Interviews

The survey responses provided many clues to the problems states and municipalities encounter in implementing drunk driving countermeasures. In order to follow-up on these clues and obtain a more complete picture of the situation, we decided to conduct a series of telephone interviews with selected respondents. Ten states were targeted for interviews, one from each of the ten NHTSA regions. The states were chosen on the basis of statistical profiles in an attempt to include states with low rates of alcohol-related fatalities, states with high rates, states with rates that were increasing, and states with rates that were decreasing. To maximize the validity of the statistics, we chose only states which tested 70 percent or more of their fatally injured drivers between 1983 and 1988. A summary of the data we used is included in Appendix 9.

A total of 25 interviews, each lasting between a half hour and two hours, were conducted. The interviewees were promised confidentiality. They were chosen from among the survey respondents who indicated a willingness to be contacted for further information, and therefore the pool from which they were chosen was self-selected. An effort was made to interview respondents from a variety of professional fields. The interviewees were asked a number of common questions, generally of an open-ended nature, although some specific questions were also asked that related to the individual's particular field of professional expertise. A list of these common questions can be found in Appendix 9.



### III. Advisory Committee Meeting

The final source of information for this report came from an Advisory Committee meeting which was held on September 8, 1989 in Washington, D.C. Committee members had been selected at the outset of the project and were provided with updates as the project activities progressed. It was decided to structure the meeting so that the Committee could provide both an independent source of information and offer commentary on the survey findings. Consequently, the first

half of the meeting was devoted to a discussion of the broad topics covered by the survey (e.g. Adjudication, Prosecution, etc.), while in the latter half of the day the preliminary survey findings were released to the Committee members and their comments on the respondents' findings and recommendations were solicited. A total of 35 people attended the meeting. (See Appendices 7 & 8 for a list of the participants and a copy of the meeting agenda.)

---

### REFERENCES

- Denzin, Norman K. The Research Act. New York: McGraw-Hill, 1978.
- Jick, Todd D. "Mixing Qualitative and Quantitative Methods: Triangulation in Action." Administrative Science Quarterly 24 (1979): 602-611
- U.S. National Highway Safety Bureau. Alcohol Safety Countermeasures Program, Washington, D.C.: U.S. Department of Transportation, 1979.

## THE PRESIDENTIAL COMMISSION RECOMMENDATIONS

One of the principal aims of this study was to examine the degree to which the recommendations made by the Presidential Commission in 1983 have been implemented. Such an endeavor has never been attempted before, in part because the Presidential Commission advocated a wide variety of actions many of which are not easily measurable. Since 1985, the NCADD has tracked on an annual basis 19 priority countermeasures. These priority countermeasures consisted solely of state legislative or regulatory actions, and included such measures as administrative per se laws, dram shop statutes, and the states' minimum purchase and possession ages. Because their implementation usually required legislation, they were tracked quite easily.

Beyond these 19 countermeasures, however, there was scant information on the extent to which the remaining recommendations had been implemented. Many of the recommendations were directed to local officials or private organizations such as civic groups and alcohol beverage retailers. In order to obtain information on these countermeasures, we expanded our annual tracking survey this year and included questions about all of the remaining Presidential Commission recommendations. The recommendations have been divided into the following seven categories: Legislative, Enforcement, Prosecution/Adjudication, Licensing, Prevention and Public Information, Youth, and Organization and State Coordination.

The survey was conducted in April 1989. It was sent to leading public officials whose departments are involved in issues relating to drunk driving and to the state leaders of private organizations such as MADD, RID, and the AAA. The survey recipients consisted of the following:

- o State Secretaries of Transportation
- o Governors' Highway Safety Representatives
- o State Attorneys General
- o Commissioners of Public Safety
- o Chief State Police Officers
- o Chief State School Officers
- o State Liquor Administrators
- o Motor Vehicle Administrators
- o State Alcohol and Drug Abuse Directors
- o National Prevention Network members
- o Judges
- o Coordinators of State Prosecuting Attorneys Associations
- o Transportation Committee Chairmen in the State legislatures
- o NHTSA Regional Administrators
- o National Association of Broadcasters State Executive Directors
- o MADD State Coordinators
- o RID State Coordinators
- o BACCHUS Area Consultants
- o AAA Traffic Safety Directors

Responses were received from every state. A total of 264 responses were received with an average of 5 responses per state. Respondents were guaranteed

confidentiality. The percentage of responses from each professional area were as follows:

23% traffic safety	7% media	6% other
16% law enforcement	6% education	5% alcohol control
13% court system	6% citizen activist	1% legislature
10% alcohol treatment	6% licensing	

The survey results lend themselves to multiple forms of analysis. In this section we have presented the data from three different facets. Although these charts may appear somewhat redundant, each presentation highlights a different aspect of the data.

Chart 1 consists of a modified version of the National Commission's "Checklist of 19 Priority Countermeasures." The chart contains a state-by-state breakdown of 19 countermeasures which the NCADD has tracked since 1985. This chart differs from those of past years in that we have adopted a dual grading system to distinguish those countermeasures which were in place before 1985 from the countermeasures which states have enacted between 1985-89. This distinction permits us to readily identify areas which have witnessed considerable legislative activity in the past five years, as well as areas which have received relatively little attention.

Chart 2 consists of a breakdown of the Presidential Commission recommendations about which we queried our survey respondents. The recommendations are classified by category and are distinct from the 19 recommendations highlighted on Chart 1. Unlike the 19 priority countermeasures, these recommendations for the most part are not directed at state legislators but, instead, are directed at an array of public officials and private sector organizations and businesses. A mean score is given for each recommendation to indicate its perceived overall level of implementation.

Chart 3 is our master chart of the 39 Presidential Commission recommendations. It encompasses the recommendations contained in both Chart 1 and Chart 2. Like Chart 1, it indicates which states have implemented the countermeasures, but in doing so it utilizes a different marking system. Chart 1 largely focused on drunk driving legislation and thus a simple dot was all that was needed to indicate whether the state had enacted the law or not. Many of the Presidential Recommendations, however, are directed at communities and their implementation may vary widely from one locality to another. In instructing the respondents on how to complete the survey, we asked that they rate the implementation of the countermeasure on a scale of 1 to 5 with an overall statewide view in mind.

The fourth item in this section is a compilation of the 39 Presidential Commission recommendations. They are included here both for reference in reading the other charts and because we still believe that they offer a model blueprint for states wishing to implement a systems approach to the problem of drunk driving.

## CHART 1

Chart 1 is a checklist of 19 countermeasures which the National Commission has selected as high priority items that lend themselves to ready measurement. Statistically, we are about two-thirds of the way toward our goal of seeing the 19 countermeasures implemented by all 50 states. Overall, each of the 19 recommendations has been implemented by an average of 32 states. This is only a statistical average; in actuality, there are wide variations in the degree to which the countermeasures have been implemented. Nonetheless, it does represent a significant improvement since 1985, when each countermeasure had been implemented, on average, by 23 states.

Table 1 (below) lists the 19 countermeasures according to the number of states which have implemented them. "Minimum drinking age of 21" heads the list with all 50 states having implemented it, while "DWI plea bargaining prohibited" ranks last, having been implemented by only 11 states.

Table 2 lists the 19 countermeasures according to the activity since 1985. In this table, "Safety belt laws" leads the list, with 35 states having implemented such laws since 1985. "BAC testing in 80% of fatal crashes" ranks last. It has the dubious distinction of being the only area where a reversal has taken place; fewer states have this countermeasure in place today than in 1985.

Table 1

Total number of states with the following countermeasures:

- 50 Minimum drinking age of 21
- 47 Two or more DWI questions on license examination
- 44 .10 or lower per se level
- 44 BAC test refusal admissible in court
- 40 User funded programs
- 40 Sobriety checkpoints
- 38 Victim compensation
- 35 Safety belt law
- 34 DWI-related death considered a felony
- 32 Dram shop statute
- 28 Mandatory 90-day loss of license for 1st offense DWI
- 28 BAC testing in 80% of fatal crashes
- 27 Administrative license suspension or revocation
- 27 Mandatory jail for driving on suspended/revoked license
- 25 Preliminary breath test permitted by law
- 24 Victim impact statement
- 23 Mandatory alcohol evaluation
- 19 Open container law
- 11 DWI plea bargaining prohibited

Table 2

Number of states that have implemented the countermeasure since 1985:

- 33 Safety belt laws
- 26 Minimum drinking age of 21
- 21 Victim compensation
- 15 Administrative license suspension or revocation
- 15 Dram shop statute
- 13 Victim impact statement permitted
- 8 Two or more DWI questions on license examination
- 7 User funded programs
- 6 .10 or lower per se level
- 6 DWI-related death considered a felony
- 5 BAC test refusal admissible in court
- 5 Mandatory jail for driving on a suspended/revoked license
- 4 Sobriety checkpoints
- 3 Open container law
- 3 Preliminary breath test permitted by law
- 3 Mandatory alcohol evaluation
- 1 DWI plea bargaining prohibited
- 1 Mandatory 90-day loss of license for 1st offense DWI
- 4 BAC testing in 80% of fatal crashes

### Definition of Recommended Countermeasures

1. Pre-conviction license suspension or revocation for all drivers whose Blood Alcohol Content (BAC) exceeds the legal limit or who refuse to take a BAC test.
2. Safety belts required by law for drivers of all ages.
3. Open container law prohibiting all unsealed alcohol beverage containers in passenger compartment of motor vehicle for all occupants of all ages. Two states (MD and NC) have weak versions of open container laws that do not meet our definition. Open container laws differ from anti-consumption laws in that they do not require the arresting officer to witness the actual act of consumption, thus facilitating arrests. 18 states that lack open container laws do have anti-consumption laws.
4. Dram shop statute which makes those who dispense alcoholic beverages to intoxicated individuals liable for subsequent injuries caused by such individuals. CA, FL, and NC are not credited with having a dram shop law that meets our criteria since their statutes apply only to minors or habitual drunkards, thus limiting their applicability. Although TX is credited with having a dram shop statute, its law has limited dram shop liability and thus has had the opposite effect of what we aim to promote. Of the 18 states without a dram shop statute, 8 states (including NC) establish dram shop liability, or possible liability, through case law precedent.
5. Illegal per se law making it an offense to operate a motor vehicle with a BAC of .10% or higher. Unlike presumptive laws, illegal per se laws do not permit the introduction of rebuttable evidence by a defendant to disprove the charge. MD, although not credited with having an illegal per se level, does consider .10% as prima facie evidence of driving under the influence. 4 states - CA, ME, OR and UT - have lowered their illegal per se levels to .08%, while VT has established a civil DWI offense at .08%.
6. Preliminary breath test specifically permitted by law. In 13 of the 25 states without a Preliminary Breath Test statute, law enforcement officials nevertheless conduct such tests.
7. A driver's refusal to be chemically tested for alcohol is permitted by law to be introduced as evidence of guilt in a court trial for DWI
8. Minimum drinking age of 21 for all alcoholic beverages. In some states the law is defined as a minimum age for purchase and possession.
9. Victim compensation provided through a state fund to which victims of drunk driving crashes are eligible to apply. In some states victims of DWI crashes are specifically permitted to apply, while in other states they merely are not excluded from applying. CT, NB and OH require a conviction for a drunk driving offense (unlike all other crimes) before the victim of a DWI crash becomes eligible to apply for funds.

10. Victims and/or their families have a statutory right to make a victim impact statement prior to sentencing in DWI cases involving death or serious injury. It should be noted that a number of states have a general Victim Bill of Rights which permits victims of all crimes to make a victim impact statement, without specifically addressing drunk driving crash victims.
11. Convicted drunk drivers are required to pay for the cost of the rehabilitative activities or treatment to which they are sentenced.
12. Plea bargaining is prohibited by statute in all DWI cases. States which only prohibit plea bargaining for multiple offenders or in cases where the offender has a high BAC have been noted on the chart, although they have not received credit for the countermeasure.
13. State law makes it an automatic felony for an intoxicated driver to kill a person in a motor vehicle crash. States in which the crime only becomes a felony on the second offense have not received credit for this countermeasure.
14. Convicted DWI offenders are required by law to undergo a pre-sentence or post-sentence evaluation for alcohol problems. The evaluations must be mandatory for all DWI offenders.
15. First offense DWI is punishable by a mandatory 90-day license suspension or revocation. In keeping with the 408 criteria, states can meet this by having a 30-day hard suspension followed by a 60-day restricted suspension.
16. Sobriety checkpoints employed in the state. No requirements exist for frequency of usage, so that the existence of a single checkpoint in a state during the year would qualify the state as having this countermeasure.
17. State law establishes a mandatory jail sentence for anyone convicted of driving on a license that was suspended or revoked because of an alcohol-related offense.
18. BAC tests conducted on a minimum of 80% of the drivers involved in fatal highway crashes in the state.
19. State driver license examinations include two or more questions specifically designed to determine the applicant's knowledge of the relationship of alcohol and other drugs to highway safety.

# Comparison of State Drunk Driving Countermeasures From 1985-1989

	SUMMARY		CHANGE	
	1985	1989	1985	1989
ALABAMA				
ALASKA				
ARIZONA				
ARKANSAS				
CALIFORNIA				
COLORADO				
CONNECTICUT				
DELAWARE				
FLORIDA				
GEORGIA				
HAWAII				
IDAHO				
ILLINOIS				
INDIANA				
IOWA				
KANSAS				
KENTUCKY				
LOUISIANA				
MAINE				
MARYLAND				
MASSACHUSETTS				
MICHIGAN				
MINNESOTA				
MISSISSIPPI				
MISSOURI				
MONTANA				
NEBRASKA				
NEVADA				
NEW HAMPSHIRE				
NEW JERSEY				
NEW MEXICO				
NEW YORK				
N. CAROLINA				
N. DAKOTA				
OHIO				
OKLAHOMA				
OREGON				
PENNSYLVANIA				
RHODE ISLAND				
S. CAROLINA				
S. DAKOTA				
TENNESSEE				
TEXAS				
UTAH				
VERMONT				
VIRGINIA				
WASHINGTON				
W. VIRGINIA				
WISCONSIN				
WYOMING				

## Winter

- TABLE 1**  
**Offenses**
- |     |  |
|-----|--|
| 1   | any BAC is above .20 or in case of DWI manslaughter or vehicular homicide. |
| 2   | any BAC is above .15 or in case of DWI manslaughter or vehicular homicide. |
| 3   | any BAC is above .10 or in case of DWI manslaughter or vehicular homicide. |
| 4   | only for 2nd and 3rd offense   |
| 5   | only if BAC is .15 or more   |
| 6   | only if BAC is .10 or more   |
| 7   | only if BAC is .15 or more   |
| 8   | only if BAC is .10 or more   |
| 9   | only if BAC is .10 or more   |
| 10  | only if BAC is .10 or more   |
| 11  | only if BAC is .10 or more   |
| 12  | only if BAC is .10 or more   |
| 13  | only if BAC is .10 or more   |
| 14  | only if BAC is .10 or more   |
| 15  | only if BAC is .10 or more   |
| 16  | only if BAC is .10 or more   |
| 17  | only if BAC is .10 or more   |
| 18  | only if BAC is .10 or more   |
| 19  | only if BAC is .10 or more   |
| 20  | only if BAC is .10 or more   |
| 21  | only if BAC is .10 or more   |
| 22  | only if BAC is .10 or more   |
| 23  | only if BAC is .10 or more   |
| 24  | only if BAC is .10 or more   |
| 25  | only if BAC is .10 or more   |
| 26  | only if BAC is .10 or more   |
| 27  | only if BAC is .10 or more   |
| 28  | only if BAC is .10 or more   |
| 29  | only if BAC is .10 or more   |
| 30  | only if BAC is .10 or more   |
| 31  | only if BAC is .10 or more   |
| 32  | only if BAC is .10 or more   |
| 33  | only if BAC is .10 or more   |
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| 42  | only if BAC is .10 or more   |
| 43  | only if BAC is .10 or more   |
| 44  | only if BAC is .10 or more   |
| 45  | only if BAC is .10 or more   |
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| 49  | only if BAC is .10 or more   |
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| 53  | only if BAC is .10 or more   |
| 54  | only if BAC is .10 or more   |
| 55  | only if BAC is .10 or more   |
| 56  | only if BAC is .10 or more   |
| 57  | only if BAC is .10 or more   |
| 58  | only if BAC is .10 or more   |
| 59  | only if BAC is .10 or more   |
| 60  | only if BAC is .10 or more   |
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| 77  | only if BAC is .10 or more   |
| 78  | only if BAC is .10 or more   |
| 79  | only if BAC is .10 or more   |
| 80  | only if BAC is .10 or more   |
| 81  | only if BAC is .10 or more   |
| 82  | only if BAC is .10 or more   |
| 83  | only if BAC is .10 or more   |
| 84  | only if BAC is .10 or more   |
| 85  | only if BAC is .10 or more   |
| 86  | only if BAC is .10 or more   |
| 87  | only if BAC is .10 or more   |
| 88  | only if BAC is .10 or more   |
| 89  | only if BAC is .10 or more   |
| 90  | only if BAC is .10 or more   |
| 91  | only if BAC is .10 or more   |
| 92  | only if BAC is .10 or more   |
| 93  | only if BAC is .10 or more   |
| 94  | only if BAC is .10 or more   |
| 95  | only if BAC is .10 or more   |
| 96  | only if BAC is .10 or more   |
| 97  | only if BAC is .10 or more   |
| 98  | only if BAC is .10 or more   |
| 99  | only if BAC is .10 or more   |
| 100 | only if BAC is .10 or more   |

\* denotes 22 states which have qualified for 408 funds  
 Δ denotes Alcohol Traffic Safety Incentive Grant Funds U.S.C. 408.

Survey reflects legislation passed as of October 1, 1989. The District of Columbia has 11 of 19 countermeasures. They are numbers 1, 2, 5, 7, 10, 11, 13, 14, 15, 16, and 19.

in place in 1985 and still in place today

☒ added since 1985

**in place in 1985 but no longer in place today**

## CHART 2

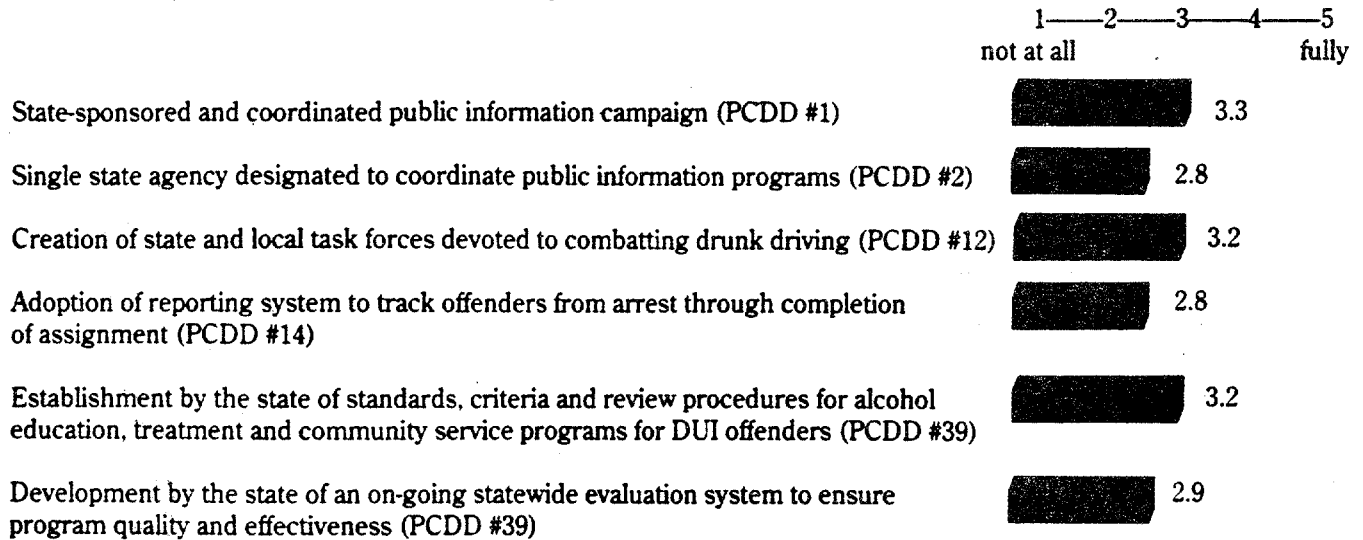
The data from this chart comes from the survey respondents and reflects their perceptions about the degree to which the Presidential Commission recommendations have been implemented. Respondents were asked to rate on a scale of 1 to 5 the extent to which each of the countermeasures had been implemented in their state. 1 indicated that the countermeasures had not been implemented at all, while 5 indicated that it had been implemented fully. To arrive at a mean score for each countermeasure, we averaged the total scores given by the respondents. Since the number of respondents varied widely from state to state, the mean scores given in this chart are weighted toward those states with the most respondents.



# Leadership and State Coordination

## PRESIDENTIAL COMMISSION RECOMMENDATIONS

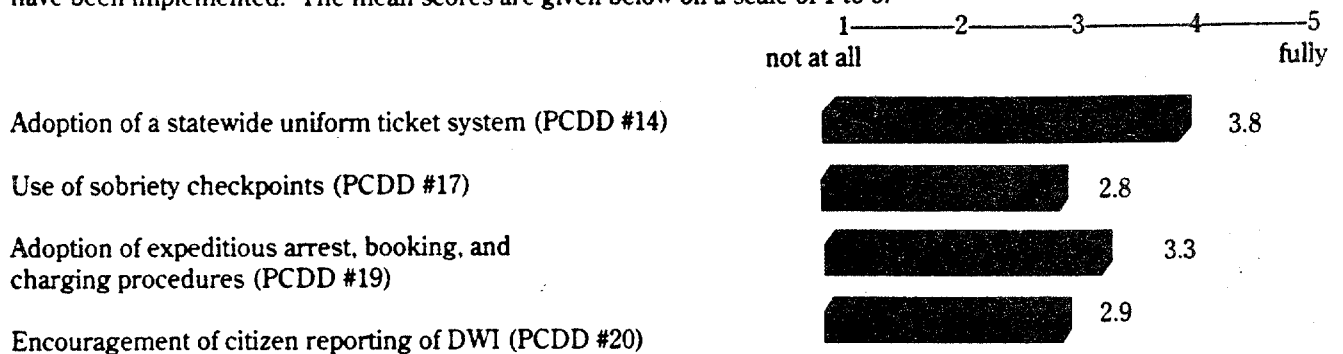
The survey respondents were asked to what extent the following recommendations of the Presidential Commission have been implemented. The mean scores are given below on a scale of 1 to 5.



# Enforcement

## PRESIDENTIAL COMMISSION RECOMMENDATIONS

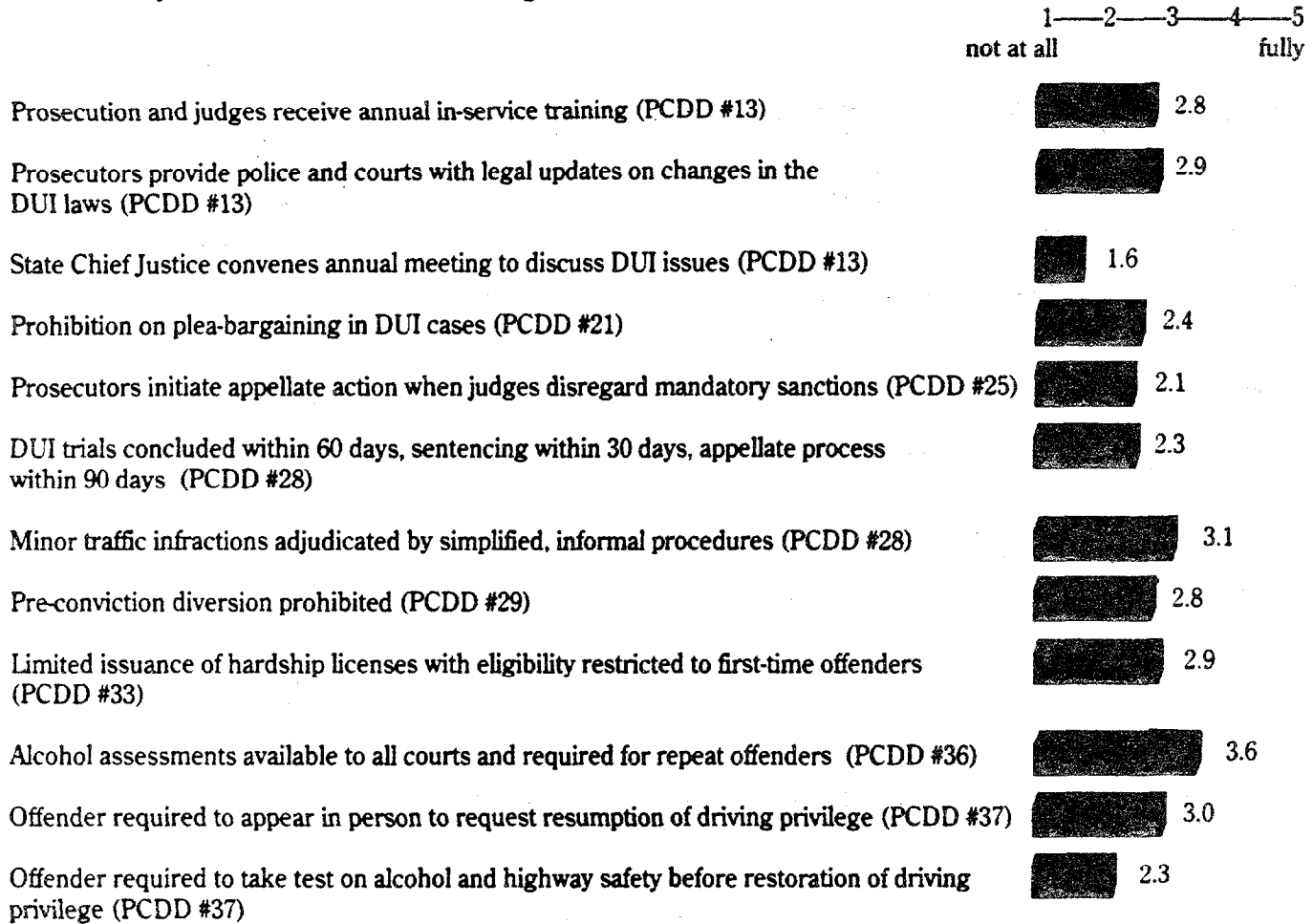
The survey respondents were asked to what extent the following recommendations of the Presidential Commission have been implemented. The mean scores are given below on a scale of 1 to 5.



# Prosecution and Adjudication

## PRESIDENTIAL COMMISSION RECOMMENDATIONS

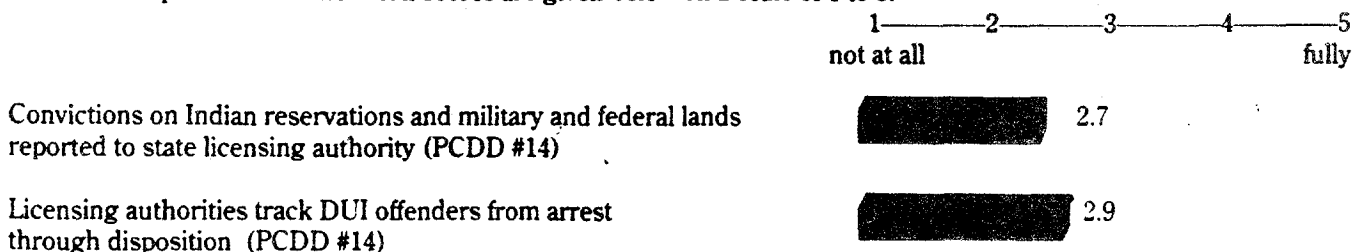
The survey respondents were asked to what extent the following recommendations of the Presidential Commission have been implemented. The mean scores are given below on a scale of 1 to 5.



# Licensing

## PRESIDENTIAL COMMISSION RECOMMENDATIONS

The survey respondents were asked to what extent the following recommendations of the Presidential Commission have been implemented. The mean scores are given below on a scale of 1 to 5.





# Prevention and Public Information


## PRESIDENTIAL COMMISSION RECOMMENDATIONS


The survey respondents were asked to what extent the following recommendations of the Presidential Commission have been implemented. The mean scores are given below on a scale of 1 to 5.


1 — 2 — 3 — 4 — 5  
not at all fully

Promotion of alcohol-related highway safety messages by the media and influential community figures (PCDD #3)  3.6


Dissemination of information on drunk driving by employers, trade associations, labor organizations, civic and fraternal groups (PCDD #5)  2.6


Information on the hazards of drunk driving provided by the motor vehicle manufacturers and dealers, insurance companies, and gas stations (PCDD #6)  2.3

Sponsorship of educational programs by the alcohol industry to warn the public of the hazards of drinking and driving (PCDD #7)  2.0

Signs on the dangers of drunk driving displayed at the point of retail alcohol sale (PCDD #7)  2.2

Server training programs (PCDD #7)  2.9

Greater attention devoted by states to roadway markings (PCDD #16)  2.4


Encouragement by government and non-governmental groups of citizens to report drivers under the influence (PCDD #20)  2.6


## Youth


## PRESIDENTIAL COMMISSION RECOMMENDATIONS

The survey respondents were asked to what extent the following recommendations of the Presidential Commission have been implemented. The mean scores are given below on a scale of 1 to 5.

1 — 2 — 3 — 4 — 5  
not at all fully

School curricula on alcohol and drugs that explicitly addresses the issue of impaired driving (PCDD #4)  3.3

Alcohol and drug programs sponsored by athletic clubs and youth organizations (PCDD #4)  3.0

Juvenile offenders required to participate in programs which closely follow the requirements for adult offenders (PCDD #38)  2.9

### CHART 3

This chart contains a state-by-state analysis of the implementation of the Presidential Commission recommendations. Although we commonly speak of there being 39 recommendations, in fact, some recommendations contain multiple parts. This chart contains 59 specific recommendations. Each is identified by its Presidential Commission number, e.g. (PCDD #1).

The information contained in this chart was derived from a number of different sources. Responses which came from our survey of countermeasures are designated by an asterisk (\*). Other sources include the "NHTSA Digest of State Alcohol-Highway Safety Related Legislation" as well as previous tracking surveys conducted by the NCADD.

Survey respondents were instructed to rate on a scale of 1 to 5 the degree to which each countermeasure had been implemented in their state. In reviewing the responses, it became apparent that there were many differences of opinion about the extent to which the countermeasures have been implemented. When two or more respondents from the same state gave greatly varying ratings to the same countermeasure, we had no way of determining which, if any, was correct and merely averaged the responses.

To arrive at an assessment of the countermeasures' implementation, we calculated the mean score of the survey respondents' ratings. These mean scores were then converted according to the following interpretation. If the mean score was between 1.0 - 1.9 we decided to consider it "unimplemented." If the mean score was between 2.0 - 3.9, we considered it to be "partially implemented." If the mean score was between 4.0 - 5.0, we considered it "fully implemented." In order to receive a rating at all, we required a minimum of three responses for that question from a state. If less than three respondents from a particular state answered the question, we assigned it an "N" indicating "not sufficient information." This rating scale is summarized below:

Mean 4.0 - 5.0 = fully implemented (F)

Mean 2.0 - 3.9 = partially implemented (P)

Mean 1.0 - 1.9 = unimplemented (space left blank)

Less than three responses = insufficient data (N)

[illegible]

[illegible]

Anti-consumption statute applies only to drivers. We have credited these states with having this countermeasure partially implemented.

Arkansas anti-consumption statute is not specific. We have credited Arkansas with having this intermediate partially implemented.

New Hampshire anti-consumption statute states that "liquor sold in a state store shall not be given away in a public place." Notes: The state is the only seller of unsealed packaged alcoholic beverages; however, this would, it appears, not only apply to packages purchased outside of the state, but also to those purchased in the state. The state has credited New Hampshire with having this countermeasure partially implemented.

<sup>4</sup> South Carolina's anti-consumption statute states that "any person who drinks alcoholic liquors in any public conveyance shall be deemed guilty of a misdemeanor." We have credited South Carolina with having this countermeasure partially implemented.

5. Virginia's anti-consumption statute states that "if a person shall take a drink of alcoholic beverages or shall tender a drink thereof to another whether accepted or not, at or in public places, he shall be guilty of a Class 4 misdemeanor." We have credited Virginia with having this countermeasure partially implemented.

[illegible]

7. States have received credit for "partial implementation" if they use the National Driver Register to check original driver license applications. If they check both original and renewal applications, they have been credited with "full implementation."

	ALABAMA	ALASKA	ARIZONA	ARKANSAS	CALIFORNIA	COLORADO	CONNECTICUT	DELAWARE	FLORIDA	GEORGIA	HAWAII	IDAHO	ILLINOIS	INDIANA	IOWA	KANSAS	KENTUCKY	LOUISIANA	MAINE	MARYLAND	MASSACHUSETTS	MICHIGAN	MINNESOTA	MISSISSIPPI	MISSOURI	MONTANA	NEBRASKA	NEVADA	NEW HAMPSHIRE	NEW JERSEY	NEW MEXICO	NEW YORK	NORTH CAROLINA	NORTH DAKOTA	OHIO	OKLAHOMA	OREGON	PENNSYLVANIA	RHODE ISLAND	SOUTH CAROLINA	SOUTH DAKOTA	TENNESSEE	TEXAS	UTAH	VERMONT	VIRGINIA	WASHINGTON	WEST VIRGINIA	WISCONSIN	WYOMING	DIST. OF COLUMBIA	PUERTO RICO					UNIMPLEMENTED	PARTIALLY IMPLEMENTED	FULLY IMPLEMENTED	INSUFFICIENT DATA																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																				
Preliminary breath test permissible by law (PCDD #18)	f				f	f	f	f	f			f	f	f	f	f	f	f			f	f	f	f	f			f	f	f							f	f																			26	-	26	-																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																				
Mandatory BAC testing for deceased drivers (PCDD #18)					f	f	f					f	f			f		f				f	f	f	f	f			f	f																													24	-	26	-																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
Mandatory BAC testing for surviving drivers involved in serious or fatal injury crashes (PCDD #18)	f				f			f				f				f		f	f	f			f																																						31	2	19	-																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																
Adoption of expeditious arrest, booking and charging procedures (PCDD #19)	p	p	n	f	p	p	p	f	p	p	p	p	p	p	p	p	p	p	p	p	f	p	p	p	n	p	p	p	n	f	p	p	f	n	p	n	p	p	n	p	n	p	n	p	n	p	n	p	n	p	n	p	n	p	n	p	n																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																							

<sup>8</sup> In Nebraska a surviving driver who is involved in an accident where there has been a fatality shall be required to submit to a BAC chemical test. The results of such a test, however, can only be used for statistical purposes.

<sup>9</sup> In South Dakota a chemical test is required only for third time DUI offenders.

<sup>10</sup> New Jersey and Delaware do not have anti-plea bargaining statutes. However, in each state an Attorney General has established a no plea bargaining policy for all public prosecutors.

<sup>11</sup> DUI plea bargaining is prohibited in Florida only if the BAC is above .20 or in cases of DUI manslaughter or vehicular homicide.

<sup>12</sup> Plea bargaining is prohibited only for 2nd or 3rd offenses in Hawaii.

<sup>13</sup> Plea bargaining is prohibited in Kentucky only if the BAC .15 or more.

<sup>14</sup> Plea bargaining is prohibited in New Mexico only if the BAC is .15 or more.







	UNIMPLEMENTED	PARTIALLY IMPLEMENTED	FULLY IMPLEMENTED	INSUFFICIENT DATA
Alabama	P	F	F	
Alaska	P	P	P	
Arizona	P	P	P	
Arkansas	P	P	P	
California	P	P	P	
Colorado	P	P	P	
Connecticut	P	P	P	
Delaware	P	P	P	
Florida	P	P	P	
Georgia	P	P	P	
Hawaii	P	P	P	
Idaho	P	P	P	
Illinois	P	P	P	
Indiana	P	P	P	
Iowa	P	P	P	
Kansas	P	P	P	
Kentucky	P	P	P	
Louisiana	P	P	P	
Maine	P	P	P	
Maryland	P	P	P	
Massachusetts	P	P	P	
Michigan	P	P	P	
Minnesota	P	P	P	
Mississippi	P	P	P	
Missouri	P	P	P	
Montana	P	P	P	
Nebraska	P	P	P	
Nevada	P	P	P	
New Hampshire	P	P	P	
New Jersey	P	P	P	
New Mexico	P	P	P	
New York	P	P	P	
North Carolina	P	P	P	
North Dakota	P	P	P	
Ohio	P	P	P	
Oklahoma	P	P	P	
Oregon	P	P	P	
Pennsylvania	P	P	P	
Rhode Island	P	P	P	
South Carolina	P	P	P	
South Dakota	P	P	P	
Tennessee	P	P	P	
Texas	P	P	P	
Utah	P	P	P	
Vermont	P	P	P	
Virginia	P	P	P	
Washington	P	P	P	
West Virginia	P	P	P	
Wisconsin	P	P	P	
Wyoming	P	P	P	
Dist. of Columbia	P	P	P	
Puerto Rico	P	P	P	

\* Juvenile offenders required to participate in programs which closely follow the requirements for adult offenders (NIN #35)

\* Establishment by the state of standards, criteria and review procedures for alcohol education, treatment and community service programs for DUI offenders (NIN #36)

\* Development of on-going statewide evaluation system by the state to ensure program quality and effectiveness (NIN #37)

#### CHART 4

The following item is a compilation of the recommendations made by the Presidential Commission in its 1983 report. The findings revealed by this assessment suggest that these 39 recommendations have stood the test of five years and are as relevant today as when they were first offered. Many of the obstacles that are cited in this report could be ameliorated, at least in part, if states and communities would undertake a sustained effort to implement the systems approach outlined in the PCDD report.

Of all the recommendations contained in the Presidential Commission report, the National Commission believes that only one needs to be reformulated. The Presidential Commission recommended that states establish an illegal per se level of .10 and a presumptive level of .08 (PCDD #23 and 24). In the intervening years since their report was published considerable evidence has become available about the effects of relatively low levels of alcohol.<sup>1</sup> It has now been established that all drivers are impaired at significantly lower levels than previously estimated. Therefore, the National Commission recommends that states establish an illegal per se level of .08 and a presumptive alcohol level of .05. This recommendation was adopted by the NCADD Board of Directors at its annual meeting on December 15, 1989. With this one exception, we stand behind the 39 recommendations contained in this report and urge all states to consider them anew.

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<sup>1</sup>Moskowitz and Robinson. Effects of Low Doses of Alcohol on Driving-related Skills: A Review of the Evidence, Washington, D.C.: NHTSA, 1988.



# Presidential Commission on Drunk Driving

The following 39 recommendations were made by the PCDD in its 1983 Report

## 1. Public Information Campaign

A media program should be developed and coordinated among appropriate agencies in each State, in cooperation with the private sector, to focus on alcohol use and abuse and their correlation to highway safety. Properly included should be information relating to new laws, fatalities and injuries, arrests and current program activities. Specifically, the program should have the following aims:

- (1) To increase public awareness of the risks of a crash caused by drinking and driving;
- (2) To heighten the perceived risk of apprehension, especially by urging newspapers to report names and addresses of persons arrested and/or convicted of driving under the influence, and also of those whose licenses have been suspended or revoked;
- (3) To encourage responsibility on the part of the general public to intervene in DUI situations and to provide education on how to do so;
- (4) To support private organizations in the establishment of prevention programs; and
- (5) To foster awareness of the health benefits of safety belts, child restraint devices, and adhering to the 55 mph speed limit.

## 2. Administration

Each State should identify a single coordinating agency for public information and education programs to minimize or prevent issuance of contradictory messages that confuse the public and endanger long-term continuity of combined efforts.

## 3. Media and Influentials

Editorial boards and media trade associations should encourage their associates and members to communicate with the public regularly about alcohol use and abuse and highway safety.

Television and radio program managers and film makers should portray alcohol use and abuse and highway safety in a responsible manner, and, where appropriate, use program content to communicate with the public about the problem of driving under the influence.

The clergy in each community should periodically remind their congregations about their responsibility for highway safety, particularly in regard to alcohol use and abuse.

Medical schools and associations should give a high priority to alcohol use and abuse issues in their curricula and organizational agendas. Physicians should be encouraged to educate their patients.

## 4. Youth Programs

The best hope for prevention lies in teaching people how to prevent drunk driving among those in their own social circles—family, friends, neighbors, and co-workers. Young people must be a

primary focus, both because they are at greatest risk for involvement in motor vehicle crashes and because their driving and drinking habits are still in the formative stages. Programs must include a variety of curricular and extra-curricular educational activities:

- (1) Curricula concerning alcohol, drugs and other impairments on the body and their relationship to highway safety should be included as part of general school curricula promoting values clarification and decision making skills. Training for teachers and school counselors is an essential ingredient.
- (2) Extracurricular programs in junior and senior high schools and in colleges should be publicized and encouraged.
- (3) Driver education programs should include information on the effects of alcohol, drugs, and other impairments on the body.
- (4) Athletic clubs and other youth organizations should establish programs for members and their peers concerning the use and abuse of alcohol, drugs, and other impairments on the body.

## 5. General Outreach

Corporations and industry trade associations, labor organizations, civic, fraternal, and social organizations should:

- (1) Develop and disseminate to employees and/or members policy statements regarding the use and abuse of alcohol and alcohol's relationship to highway-related deaths and injuries, and implement these policies at company-sponsored events.
- (2) Implement educational programs directed toward their employees and customers concerning the problems caused by driving under the influence and the solutions available.
- (3) Implement employee assistance programs to deal with employees' alcoholism problems.
- (4) Become active advocates and participants in local or State endeavors to reduce driving under the influence.

## 6. Motor Vehicle Related Industries

Motor vehicle manufacturers and dealers should include in their owner's manuals, advertising programs, showrooms, and local sales efforts information on the hazards of combining alcohol use and driving and the benefits in reducing death and injury of using safety belts and child restraints and adhering to the 55 mph speed limit.

Insurance companies should include in their policy billings, advertising and sales materials, and agent information kits, information on the hazards of combining alcohol use and driving and the benefits in reducing death and injury of using safety belts and child restraints and adhering to the 55 mph speed limit.

Gasoline stations and motor vehicle repair shops should display

signs informing their customers of the law and their responsibility relating to the hazards of combining alcohol use and driving and the benefits in reducing death and injury of using safety belts and child restraints and adhering to the 55 mph speed limit.

## **7. Alcoholic Beverage Industries and Servers**

The beer, wine and distilled spirits industries at the producer, wholesale and retail levels should either initiate or expand educational programs to warn the public of the hazards of drinking and driving.

Package stores, bars, restaurants, fraternal and social organizations, and other establishments having an alcoholic beverage license should display signs informing customers of the laws relating to alcohol use and highway safety.

Alcoholic Beverage Control Commissions should encourage owners of retail establishments which serve alcoholic beverages to provide their employees with education on alcohol use and abuse and highway safety.

Schools for bartending should provide education and training concerning alcohol use and abuse and highway safety.

Party hosts should be provided information on ways of entertaining that help prevent the abuse of alcohol at social functions and on methods of intervening to prevent intoxicated guests from driving.

## **8. Minimum Legal Purchasing Age**

States should immediately adopt 21 years as the minimum legal purchasing and public possession age for all alcoholic beverages.

Legislation at the Federal level should be enacted providing that each State enact and/or maintain a law requiring 21 years as the minimum legal age for purchasing and possessing all alcoholic beverages. Such legislation should provide that the Secretary of the United States Department of Transportation disapprove any project under Section 106 of the Federal Aid Highway Act (Title 23, United States Code) for any State not having and enforcing such a law.

## **9. Dram Shop Laws**

States should enact "dram shop" laws establishing liability against any person who sells or serves alcoholic beverages to an individual who is visibly intoxicated.

## **10. Alcoholic Beverage Consumption in Motor Vehicles**

State and local governments should prohibit consumption of alcoholic beverages in motor vehicles and prohibit the possession of open alcoholic beverage containers in the passenger compartments of motor vehicles.

## **11. Program Financing**

Legislation should be enacted at the State and local levels which creates a dedicated funding source including offender fines and fees for increased efforts in the enforcement, prosecution, adjudication, sanctioning, education and treatment of DUI offenders.

## **12. Citizen and Public Support**

*Citizen Support:* Grassroots citizen advocacy groups should be encouraged to continue fostering awareness of the DUI problem, to cooperate with government officials, prosecutors and judges to deal more effectively with the alcohol-related crash problem, and to encourage the development of personally respons-

ible drinking/driving behavior.

*Task Forces:* State and local governments should create task forces of governmental and non-governmental leaders to increase public awareness of the problem, to apply more effectively DUI laws, and to involve governmental and non-governmental leaders in action programs.

*National Body:* A non-governmental body of public and private leaders should be established at the national level to ensure a continuing focus on efforts to combat driving under the influence.

## **13. Criminal Justice System Support**

*Priority:* Police, prosecutors and courts should publicly assign a high priority to enforcing DUI statutes.

*Training:* Police, prosecutors, judges and other related justice system personnel should participate in entry level and annual in-service training programs established to improve the detection, prosecution, and adjudication of DUI offenders.

*Legal Updates:* Prosecutors should provide local enforcement agencies and courts with periodic legal updates on developments and/or changes in the DUI laws.

*Legal System Review:* The Chief Justice or highest appellate judge in each State, in the interest of uniformity and effectiveness, should convene an annual meeting of all components of the legal system to review the progress and problems relating to DUI offenses and issue a report on the results.

## **14. Tracking and Reporting Systems**

*Record System:* Police, prosecutors and courts should collect and report DUI apprehension, charging and sentencing information to the state licensing authority. Convictions on military and Federal lands, including Indian tribal lands, should also be reported. The State licensing authority must maintain a traffic records system capable of tracking offenders from arrest to conviction or other disposition, including sanctions imposed by both judicial and licensing authorities. This system should also be used for evaluation purposes.

*Uniform Traffic Ticket:* State and local governments should adopt a statewide uniform traffic ticket system.

*Driver License Compact:* Each State should adopt the Driver License Compact and the one license/one record policy, while also utilizing the National Driver Register.

## **15. Safety Belt and Child Restraint Usage Laws**

States should enact safety belt and child restraint usage laws.

## **16. Improved Roadway Delineation and Signing**

States should give increased attention to improvements in roadway markings and signing, and roadside hazard visibility as important countermeasures to alcohol-related highway crashes.

## **17. Selective Enforcement and Road Blocks**

Police agencies should apply selective enforcement and other innovative techniques, including the use of preliminary breath testing devices and judicially approved roadblocks, to achieve a high perception of risk of detection for driving under the influence.

## **18. Chemical Testing**

*Implied Consent:* Each State should establish an "implied consent" statute which provides that all drivers licensed in that State are deemed to have given their consent to tests of blood, breath or urine to determine their alcohol or drug concentration. This statute should provide:

Sufficiently severe license suspensions to discourage drivers from refusing the test.

That a test refusal can be introduced at a DUI trial as evidence of con-

sciousness of guilt.

That offenders who are unconscious or otherwise incapable of refusal are deemed to have given their consent to a test, the results of which are admissible in any trial or proceeding.

That an individual's right to consult his attorney may not be permitted to unreasonably delay administration of the test.

That results of preliminary breath test devices be admissible in the DUI trial proceedings.

That refusals in sister States shall result in license suspensions in the State of driver residence.

*Preliminary Breath Testing:* States should enact a statute allowing the use and admissibility in evidence of Preliminary Breath Test (PBT) devices by police officers.

*Police Choice of Chemical Tests:* The arresting officer should determine the appropriate chemical test or tests to be administered to the driver suspected of driving under the influence.

*Mandatory BAC Test:* States should require mandatory alcohol and other drug testing of: (1) all drivers fatally injured, and (2) where there is probable cause to suspect alcohol involvement, all drivers involved in a fatal or serious personal injury crash.

## **19. Booking Procedures**

Laws, policies, and procedures should be adopted to expedite arrest, booking and charging procedures.

## **20. Citizen Reporting**

Citizens should be encouraged by governmental and non-governmental groups to report drivers under the influence.

## **21. Plea Bargaining**

Prosecutors and courts should not reduce DUI charges.

## **22. Definition of BAC**

States should enact a definition of breath alcohol concentration and make it illegal to drive or be in control of a motor vehicle with a breath alcohol concentration above that defined level.

## **23. 0.08 Presumptive Level of Under the Influence**

Legislation should be enacted which provides that a person with an alcohol concentration of 0.08 is presumed to be driving under the influence.

## **24. 0.10 Illegal Per Se**

Legislation should be enacted making it illegal per se for a person with an alcohol concentration of 0.10 or higher within three hours of arrest to drive or be in actual physical control of a motor vehicle.

## **25. Appellate Action**

Prosecutors should initiate appropriate appellate actions to ensure judicial compliance with statutory mandates governing DUI cases.

## **26. Mandatory Sentencing**

*Sentencing of DUI Offenders:* The sentence recommended herein upon conviction of driving under the influence should be mandatory and not subject to suspension or probation. Specifically, the recommendations are that

All states establish mandatory *substantial minimum fines* for DUI offenders, with correspondingly higher mandatory minimum fines for repeat offenders.

Any person convicted of a first violation of driving under the influence should receive a mandatory license suspension for a period of not less than 90 days, plus assignment of 100 hours of community service or a minimum jail sentence of 48 consecutive hours.

Any person convicted of a second violation of driving under the influence within five years should receive a mandatory minimum jail sentence of 10 days and license revocation for not less than one year.

Any person convicted of a third or subsequent violation of driving under the influence within five years should receive a mandatory minimum jail sentence of 120 days and license revocation for not less than three years.

*Sentencing of License Violators:* States should enact a statute requiring a mandatory jail sentence of at least 30 days for any person convicted of driving with a suspended or revoked license or in violation of a restriction due to a DUI conviction.

## **27. Felony**

Causing death or serious bodily injury to others while driving under the influence should be classified as a felony.

## **28. Court Administration**

*Speedy Trials:* DUI cases at the trial level should be concluded within 60 days of arrest. Sentencing should be accomplished within 30 days. The appellate process should be expedited and concluded within 90 days.

*Traffic Infractions:* To relieve court congestion and to focus attention on DUI cases, minor traffic infractions should be adjudicated by simplified and informal procedures.

## **29. Pre-Conviction Diversion**

Pre-conviction diversion to alcohol education or alcohol treatment programs should be eliminated. A finding on the charge should be rendered and participation in education or treatment programs should then become a condition of sentencing.

## **30. Presentence Investigation**

Before sentencing, a court should obtain and consider a presentence investigation report detailing the defendant's driving and criminal record, and, where possible, an alcohol problem assessment report. In all cases an alcohol problem assessment report should be completed by qualified personnel prior to the determination of an education or treatment plan.

## **31. Victim Programs**

*Victim Restitution:* Any person convicted for driving under the influence who causes personal injury or property damage should pay restitution.

*Elimination of Bankruptcy Loophole:* The United States Congress should enact legislation which eliminates the possibility that a drunk driver, judged civilly liable, will be able to escape the penalties of civil action by filing for bankruptcy.

*Victim Assistance:* State and local governments and private and volunteer organizations should provide assistance to victims of DUI offenders.

*Victim Impact Statements:* State and local governments or courts by rule should require victim impact statements (including oral or written statements by victims or survivors) prior to sentencing in all cases where death or serious injury results from a DUI offense.

## **32. Administrative Per Se License Suspension**

States should enact legislation to require prompt suspension of the license of drivers charged with driving under the influence, upon a finding that the driver had a BAC of 0.10 in a legally requested and properly administered test. The prompt suspension should also extend to those who refuse the test, as well as those who are driving in violation of a restricted license. Such suspension may be carried out by the arresting law enforcement agency, the court upon arraignment, or the administrative agency charged with license administration. There should be a reciprocity among States to assure a driver's

license suspension by the home State if the driver meets these conditions in another State.

### **33. Restricted Licenses**

Each State driver licensing authority should review its practice of issuing Occupational Hardship Driver Licenses following suspension or revocation and establish strict uniform standards relative to issuance and control of such limited driving privileges. These licenses should be issued only in exceptional cases. In no event should this be done for repeat offenders.

### **34. Provisional License for Young Drivers**

States should adopt laws providing a provisional licence for young beginner drivers which would be withdrawn for a DUI conviction or an implied consent refusal.

### **35. Licensing Information**

*Driver Licensing Manuals* should discuss the relationship of alcohol and drugs to highway safety and include the penalties for arrest and conviction of driving under the influence.

*Motor Vehicle Administrators* should include in license and motor vehicle registration renewal applications information on the relationship of alcohol and drugs to highway safety.

*Driver's License Examinations* should include questions specifically designed to determine the applicant's knowledge of the relationship of alcohol and drugs to highway safety, as well as his or her understanding of the laws governing such conduct.

### **36. Assignment Process**

*Rehabilitation and education programs* for individuals convicted of driving under the influence should be provided as a supplement to other sanctions and not as a replacement for those sanctions.

*Presentence investigation*, including alcohol assessments conducted by qualified personnel, should be available to all courts in order to appropriately classify the defendant's problem with alcohol. Repeat offenders should be required to undergo medical screening for alcoholism by a physician trained in alcoholism, an alcoholism counselor, or by an approved treatment facility.

*Alcohol Education programs* should be used only for those first offenders who are classified as social drinkers and for those who have had no previous exposure to alcohol education programs. Problem drinkers and repeat offenders should be referred to more intensive rehabilitation programs.

*Alcohol treatment and rehabilitation programs* should be available for individuals judged to need such services. The programs should be tailored to the individual's needs, and the individual should be assigned to such programs for a length of time determined by treatment personnel and enforced by court probation.

*State insurance commissioners* should require and/or State legislators should enact legislation requiring health insurance providers to include coverage for the treatment and rehabilitation of alcohol and other drug dependent persons in all health insurance policies.

### **37. Compliance**

When assignments are not complied with, the courts or the administrative licensing agency must take steps to impose further restrictions on driving privileges or to assess further penalties as spelled out in the original sentence.

A records reporting system should be available to assure that individual offenders assigned to education or treatment services do in fact comply with the assignments, and to make information on compliance available to motor vehicle administration officials at the time of appearance for relicensing.

Offenders should be required to appear in person to request return of driving privileges and should be given appropriate tests to determine their level of knowledge about alcohol and its relation to highway safety, as well as about the laws governing operation of a motor vehicle while under the influence of alcohol.

### **38. Juvenile Offenders**

Juvenile offenders should be required to participate in a program which closely follows the requirements for adult offenders.

### **39. Administrative**

State standards, criteria and review procedures should be established for alcohol education schools, treatment and rehabilitation services, and community service programs. A State agency should be assigned responsibility to certify to the courts the alcohol education and treatment and rehabilitation programs that meet established criteria and standards. This same agency should make efforts to draw upon and involve appropriate existing programs, e.g., employee assistance programs.

States should develop and implement an on-going statewide evaluation system to assure program quality and effectiveness.

Individuals should be assessed fees for education or treatment and rehabilitation services at a level sufficient to cover the costs.



## **REPORT FINDINGS**

## LEGISLATIVE

The first section of our survey focused on the legislative process. We were interested in learning who has exhibited leadership on the issue of drunk driving in their state, what obstacles have been encountered in efforts to pass drunk driving legislation, and what else the respondents felt was needed to have an effective package of drunk driving legislation in their state.

The responses we received highlighted the fact that citizen activist groups have been the major catalyst of legislation since emerging on the scene in the late 1970's and early 80's. "Lobbying by concerned citizens" was cited as the most important factor in getting drunk driving legislation passed, and citizen organizations were cited even more frequently than Governors as exercising foremost leadership on the issue of drunk driving.

The list of obstacles encountered in efforts to pass drunk driving legislation was lengthy and testifies to the tenacity that proponents of such legislation must often possess. More than 100 unique problems were identified. In order to analyze them, we assigned them to agents of responsibility. Not surprisingly, problems involving the legislators themselves ranked first. 25 percent of the respondents cited such problems as the failure of legislators to recognize the seriousness of the drunk driving problem, the apathy of legislators, or obstruction by a key legislator. Not all problems with legislators, however, were

attributed to a lack of legislative concern about the issue.

Respondents also recognized that deep differences of opinion over how to address the problem of DWI exist among legislators; concerns about violations of civil rights and excessively harsh penalties for offenders also emerged as obstacles. Divisions of opinion within the legislature mirrored differences among society at large; the American Civil Liberties Union was cited several times as an opponent and impediment in efforts to pass legislation.

The second major category of obstacles centered on the activities of the alcohol beverage industry. 23 percent of the respondents declared that the alcohol beverage industry and alcohol retailers have impeded efforts to pass drunk driving legislation, primarily through lobbying but also on occasion through contributions to political candidates. Their opposition to dram shop laws and raising the drinking age to 21 were noted in particular.

The third major obstacle, and one cited by 14 percent of the respondents, was the detrimental influence of lawyers. A significant number of respondents complained that the passage of drunk driving legislation is hindered by lobbying by defense attorneys. The influence of the defense bar is magnified, according to respondents, by the large numbers of lawyers serving in state legislatures.

These responses criticizing the

influence of defense attorneys offered the first glimpse of a theme that emerged with increasing clarity in the survey. There seems to be a widespread perception that the court system is skewed in favor of the defendant. Many advocates of drunk driving countermeasures identified the court system as a major locus of problems, a place where the systems approach to drunk driving tends to break down. Part of the problem, respondents suggested, is an orientation that favors the rights of offenders at the expense of legitimate community interests in traffic safety. That orientation, they argued, can be difficult to change when there exists a vocal lobby of defense attorneys whose outlook is shared by lawyers serving in the legislature.

The final question in this category asked respondents to identify what else was needed in their state to have an effective package of drunk driving legislation. The question was intentionally left open-ended, and two types of responses were received. The first consisted of specific laws which the respondents felt their states should adopt. The

most frequently cited countermeasure of this type was administrative per se license sanctions, which received overwhelming endorsement. The adoption of administrative per se laws was called for in virtually every state that does not presently utilize them. The other countermeasure which received widespread support was lower illegal per se BAC levels.

The second type of response to this question concerned the necessary requirements for enacting legislation rather than the adoption of specific countermeasures. These types of responses accounted for three out of the top four responses, and testified to the critical role of public opinion in shaping the legislative agenda. The responses included the need for increased public support and greater public pressure, a change in public attitude, more grass roots efforts, and increased public information. Throughout the survey, respondents reiterated this theme: continual efforts are still required to inform the general public about the problem of drunk driving; social disapproval of drunk driving remains insufficiently strong.

## ENFORCEMENT

The 1980's have been the decade of the deterrence model after experiments with less punitive, treatment-oriented approaches proved unsuccessful in reducing drunk driving in the 1970's. The picture of enforcement practices that emerges from our study seems to reveal two themes. First, of all the components comprising the systems approach, enforcement seems to have achieved the highest level of implementation. Second, while a perception exists that enforcement officials have done a reasonably good job, the current level of enforcement appears to have

stabilized or even slipped from that achieved in past years.

The survey respondents appear to have a positive perception of the efforts of enforcement agencies. Throughout the survey, we periodically asked how seriously the respondents felt various groups treated the issue of drunk driving. Of the seven groups covered, law enforcement officials received the highest overall marks. The mean scores are given below on a scale of one to five. A complete breakdown of the seven groups by individual states is included in Appendix 4.

1.....2.....3.....4.....5	
not serious	very serious
Law enforcement officials	mean = 4.1
Top state officials	mean = 3.8
General public	mean = 3.5
State legislature	mean = 3.4
Prosecutors and judges	mean = 3.4
Youth	mean = 3.0
Retail alcohol vendors	mean = 2.2

By a wide margin, law enforcement officials were seen to treat the problem of DWI far more seriously than any other group.

The second measure that suggests a favorable perception of law enforcement efforts was derived from an aggregation of questions inquiring about the extent to which the Presidential Commission recommendations had been implemented. On the survey, we

divided the PCDD recommendations into 10 categories and asked the respondents to rate on a scale of one to five the extent to which each recommendation had been implemented in their state. Taking the mean scores of all questions within each category, we discovered that the respondents perceived that the enforcement countermeasures had been implemented more fully than any other category of countermeasures. The results are as follows:

1.....2.....3.....4.....5  
 not at all fully implemented

Enforcement recommendations	mean = 3.2
Youth recommendations	mean = 3.1
Organization and state coordination recommendations	mean = 3.0
Public information recommendations	mean = 3.0
Licensing recommendations	mean = 2.8
Prosecution and adjudication recommendations	mean = 2.7
Citizen involvement recommendations	mean = 2.6
Prevention recommendations	mean = 2.4

While survey respondents appear to rate the achievements of law enforcement agencies quite high when compared to drunk driving countermeasures in other areas, an overview of the 50 states suggests that widely divergent levels of activity exist. Moreover, no single nationwide trend seems to exist. While some states are experiencing an increase in levels of enforcement (e.g. Ohio and New Hampshire which recently resumed conducting sobriety checkpoints after a hiatus of several years), other states appear to be suffering from declines in enforcement activities. (Oregon, for instance, has experienced a 50 percent decline in the size of its state police force in the last decade, from more than 700 officers to 370.)

Two questions on the survey were designed to elicit information about how current enforcement activity compares to that in the past. First, we asked respondents how the level of arrests compared in 1989 to levels in

1983 and 1985. 41 percent of the respondents indicated that the number of arrests had increased in their state during that time. 21 percent of the respondents declared that an initial arrest in the mid 1980's had been followed by a subsequent decline. And 12 percent of the respondents stated that there had been a general decline since 1983.

When asked what factors they believed affected the change in arrest rates, the survey respondents cited a variety of explanations which made it difficult to interpret the relationship between the number of arrests and the level of enforcement. Some respondents interpreted a decline in arrests as a positive outcome resulting from greater levels of police commitment, increased public awareness, and greater fear among motorists of apprehension. Others interpreted it as a negative development and a sign of decreased police attention to the problem of DWI.

The second question about enforcement activity provided more conclusive information. In that question we asked respondents to describe the use of sobriety

checkpoints in 1983 and compare that rate of usage to today. A choice of five levels of usage was offered. The table below summarizes the results:

<u>1983</u>	<u>1989</u>	<u>Rate of Use</u>
<u>4%</u>	<u>10%</u>	used frequently by many localities
<u>6%</u>	<u>10%</u>	used frequently by a few localities
<u>4%</u>	<u>14%</u>	used occasionally by many localities
<u>34%</u>	<u>31%</u>	used occasionally by a few localities
<u>39%</u>	<u>22%</u>	virtually no localities ever use them

The table above suggests a general increase in the use of sobriety checkpoints between 1983-89 in terms of both extensiveness and intensity. When we examine the data on a state-by-state basis, however, we find significant variations:

- 16 states showed a slight increase in activity since 1983;
- 10 states showed a decline in activity since 1983;
- 24 states plus Puerto Rico and the District of Columbia showed approximately the same level of activity. (See Appendix 1 for a listing of the reported use of sobriety checkpoints in the 50 states.)

In five of the ten states where respondents reported a decline in the use of checkpoints, the decline was attributed to court decisions declaring the use of checkpoints unconstitutional. Curiously, in three of these five states (Georgia, Maryland, and Washington) the State Appellate Court did not render unfavorable decisions, but actually ruled favorably on the use of checkpoints. This suggests that some confusion may exist about the outcome

of these cases and that even unsuccessful challenges may contribute to the perception that sobriety checkpoints are unconstitutional. The two sobriety checkpoint cases pending before the U.S. Supreme Court in the 1990 session may serve to clarify questions about the constitutionality of checkpoints.

Through both surveys and interviews, the National Commission obtained a considerable amount of information on the problems that hinder effective enforcement of drunk driving laws. The principal limitation is the finite supply of funds for manpower and equipment. Insufficient resources was cited as a problem by 54 percent of the survey responses. The problem of limited resources is made more acute by the fact that DWI enforcement at times gives way to crimes which are perceived to be more serious. 7 percent of the respondents complained of diversions of resources from DWI to other higher priority areas. Given this situation it becomes even more imperative that the enforcement resources devoted to drunk

driving, including officer time, be used efficiently. Unfortunately, they often are not. Respondents and interviewees cited numerous examples of laws and procedures which make excessive demands upon the officer's time and may deter the enforcement of drunk driving laws. These include:

- laws which give the suspect rather than the officer the choice of chemical tests. Often the taking of a blood sample will involve greater travel from the site of arrest and take a longer period of time to administer than a breath test.

Repeat offenders learn to request such tests, hoping that the officer may be reluctant to expend the extra time to obtain such a test and that, in the time that elapses, their BAC levels may decline;

- laws which require two sequential breath tests. In North Carolina an arrested driver may submit to the first breath test, learn that it reveals an alcohol concentration above the legal limit, and refuse to take a second test. Without the second test, some judges hold that the first test is inadmissible as evidence.

- laws which require officers to attend administrative per se hearings in person, rather than merely submitting an affidavit. The nature

of the offense should reduce the need for personal testimony except to establish probable cause.

- laws which require the presence of two officers at the operation of a breathalyzer.

The most frequently cited obstacles to hinder the effectiveness of DWI enforcement, however, had nothing to do with the arrest and booking procedures required of officers. Rather, they concerned what happened after an officer makes an arrest; they concerned the procedures of the court system and the frustration officers sometimes experience in witnessing how the criminal justice system handles DWI offenders. In response to the question "what obstacles exist to more effective enforcement of drinking and driving in your state," two of the most frequent answers were 1) the apathy, lack of training and leniency of judges, and 2) an overburdened court system incapable of adjudicating DWI cases expeditiously. These survey responses emphasize the extent to which the enforcement and adjudication systems are interlinked and underscore the impact that problems in the court system can have on enforcement.

## ADJUDICATION

Though the analogy of a spoked wheel is often invoked to describe the systems approach to drunk driving, the image is somewhat misleading. Each "spoke" of the system is not coequal. The testimony of the respondents and the experience of states clearly reveals that an effective adjudicatory system is of preeminent importance. If a judicial system functions inefficiently, overextended prosecutors are forced to plea bargain or dismiss charges; alcohol offenses are downgraded and go unrecorded; those with alcohol problems go undetected and recidivists fall through the cracks. As officers recognize that the offenders they arrest go unprosecuted, they grow disheartened. Arrests typically decline, and even the best laws in the world, unenforced, prove futile.

The comments from survey respondents indicate that in many localities the judicial system has reached the point of near collapse. With the exception of "a shortage of funds," no other subject was as frequently declared an obstacle as the judicial system. Judges and prosecutors were much maligned. Problems involving the judiciary were cited in three distinct categories; they appeared as major obstacles in responses about Enforcement, Prosecutor/Adjudication, and Licensing.

Whatever the underlying cause, a large number of courts appear incapable of handling DWI case loads. 42 percent of the respondents cited problems with court delays and an overburdened court system. Plea bargaining and charge bargaining were identified as problems by 16 percent of the survey respondents, while 16

percent similarly cited the lack of adequate jail space or correctional facilities. 20 percent of the respondents complained of the lack of uniform sentences and excessive judicial discretion; another 16 percent decried the leniency of judges and prosecutors (see Appendix 5, Question 17).

In addition to an overburdened court system, respondents perceived that insufficient training and information is provided to judges and prosecutors. The very lowest mean score for any Presidential Commission recommendation was received in response to the question whether the State Chief Justice convenes an annual meeting to discuss DWI issues. On a scale of 1-5, survey respondents assigned it a score of 1.6, indicating that it is widely unimplemented (see Chart II, p. 16).

Furthermore, in comparison to other groups, judges and prosecutors were not perceived to treat DWI very seriously. Of the seven groups we asked respondents to assess, prosecutors and judges ranked fifth, with only youth and retail alcohol vendors perceived to treat the problem less seriously (see Appendix 4). Similarly, when we asked to what extent the Presidential Commission recommendations had been implemented, those in the category of Prosecution/Adjudication ranked sixth lowest out of eight.

When asked what else is required for effective prosecution and adjudication in their state, the survey respondents identified education for judges and prosecutors as the foremost measure, implying perhaps that they believe the obstacles hindering prosecution and



adjudication (e.g. plea bargains, variations in court sentences, etc.) are due more to the individual attitudes of judges and prosecutors than to unmanageable case loads. The second most frequent response included restrictions on plea

bargaining, limitations on judicial discretion, and more mandatory sentences. The third and fourth most frequent responses called for more prosecutors and judges, lower case loads for each, and additional funding for the court system.

## LICENSING

Licensing seemed to be one area where the survey respondents felt more could be done to combat drunk driving. Procedures, technologies and sanctions which might contribute greatly to reducing drunk driving are not being employed, either because of a lack of legislation or because of a lack of funding.

When asked what obstacles hindered the implementation of licensing measures designed to combat drunk driving, respondents most frequently cited a lack of legislative support or legislative mandate. Since so many respondents urged the adoption of administrative license sanctions, presumably it was this sanction to which they often were referring. In fact, when asked what else was needed for effective licensing in their state, the second most frequent response was administrative license sanctions.

License sanctions were not the only administrative action which respondents advocated. Interviewees from Minnesota were quick to recommend that other states learn from their example and adopt administrative license plate confiscation. In Minnesota legislation has been passed authorizing the courts to seize the license plates of repeat offenders. Confiscation is possible for any offender who has three DWI violations in five years or four or more violations in ten years. Two problems have emerged, however, to limit the impact of this law. According to respondents, the judges' unfamiliarity with motor vehicle registration records and their reluctance to take the license plates from a car needed by an offender's family have led to relatively

infrequent use of this sanction. One interviewee stated that only about 300 plates, or 10 percent of the eligible number, had been confiscated. Therefore, legislation has been introduced in Minnesota to make this an administrative action, thereby relieving judges of this responsibility and ensuring that a higher percentage of repeat offenders are kept off the road.

Administrative license plate confiscation holds the possibility of reducing one of the most difficult problems facing licensing officials - the problem of preventing offenders from driving on a suspended or revoked license. Respondents offered few other options that held a promise for addressing this problem. When asked what kinds of efforts are made to follow-up on persons receiving license suspensions to ensure that they comply with the suspension, 40 percent of the respondents answered "nothing," "not much," or "little." An additional 36 percent stated that they undertook no action other than imposing increased penalties such as fines or jail if the offender were rearrested. Although no respondents mentioned that they were employing such a measure, several of them recommended issuing special color-coded license plates to repeat offenders.

A lack of legislative authorization constituted the most frequently cited obstacle facing licensing authorities. The second most frequent obstacle was a lack of money. In describing what else was needed in their state, the respondents cited a large number of proposals which would require substantial funds to implement. These ranged from the need to

cross-reference driver licenses and registered vehicles in Tennessee, to the expanded use of on-board computers in police cruisers so as to have direct access to DMV records. One DMV official complained that just at the time when so much new equipment exists to upgrade the tracking capability of licensing

authorities, his department is being inundated with new functions such as voter registration, bicycle and boat registration, and the issuance of state I.D. cards, thereby diverting resources away from the licensing agency's central responsibilities.

## PREVENTION AND PUBLIC INFORMATION

The degree to which the Presidential Commission recommendations dealing with prevention and public information have been implemented varies greatly. Groups such as the media and influential community figures received high marks from survey respondents for their efforts to promote an awareness of drunk driving problems, while car dealers, automobile manufacturers, and the alcohol beverage industry received very low marks (See p. 17).

Respondents perceived little in the way of point of sale signs on the dangers of drunk driving, but felt that server training programs were fairly widespread. The Alcohol Beverage Control Commissions were considered to be the major provider of server training, but hotel/restaurant associations, and the Governors' Highway Safety Offices also were cited as being active in the promotion of training programs. When asked what else was required to improve prevention programs, one respondent suggested the need for National Alcohol Server Training Standards. An interviewee in New Jersey noted that what has occurred there may become a trend throughout the country. In New Jersey the Tavern Owners Association started its own self-insurance fund when insurance premiums became costly and hard to obtain. In order to join this self-insured pool, the Association requires that a member's servers and trainers participate in a server training program.

In addition to server training, citizen activist groups were perceived to be an essential element of public information campaigns. Survey respondents believed that

citizen groups have had a significant impact in the areas of public information and legislation, while exercising somewhat less impact in the areas of enforcement, prosecution, adjudication, and sentencing.

Interviewees, on the other hand, emphasized the importance of citizen groups for enforcement and sentencing. Several state officials stressed the role court watchers play in ensuring that judges impose tough sanctions on DWI offenders, while others noted the important boost that citizen involvement can give to law enforcement efforts. When an officer knows that a community coalition will hold an award ceremony to recognize the officer with the most DWI arrests, or when citizen groups have expressed their willingness to track the cases of offenders arrested in a special enforcement operation, law enforcement officers may be more motivated to tackle the sometimes unpleasant duty of arresting drunk driving offenders.

When asked about the status of citizen groups, respondents indicated that citizen groups had continued to grow since 1983 in terms of membership, influence, and visibility. Of the three, membership was credited by more respondents with having increased than either influence or visibility.

## YOUTH

Youthful drinking and driving was perceived to be very serious problem by most of our survey respondents. The highest rating of any question on the survey was given in response to the question "to what extent do you consider youthful drinking and driving to be a problem in your state." On a scale of 1-5, the problem was rated a 4.3. Respondents clearly feel that while a serious problem exists, young people do not perceive it to be a problem. Asked how seriously underage youth regard the problem, respondents assigned it a 3.0. Only retail alcohol vendors were perceived to treat the problem less seriously than youth.

As in so many other areas, the most frequently cited obstacle in the area of youth programs was the lack of funds. The need for funding to develop and sustain education and prevention programs was made clear. Despite the fact that it was the single most mentioned problem, a lack of funds did not emerge as the theme of this section. Instead, the real theme was attitudes. The next five obstacles, following "a lack of

funds", all centered around the attitudes of various groups. In descending order of frequency, these obstacles were: the attitude of our judicial system toward youthful DWI offenders and the leniency of judges and prosecutors; the general community tolerance toward underage drinking and impaired driving; the attitude of youth themselves toward drinking and their susceptibility to peer pressure; the lack of parental concern; and problems with school education including denial of a problem by school administrators.

In addition to asking our customary questions about obstacles and recommendations, we also were curious to learn what respondents thought of the minimum drinking age of 21. We asked both how effective it has been in deterring underage drunk driving and how seriously it has been enforced. Respondents indicated that it has been enforced quite well (3.5 on a scale of 1-5), but that it has had only modest success in deterring drunk driving (3.1)

## GENERAL FINDINGS

In addition to the specific findings in each of the ten categories documented above, our study revealed a number of general themes that emerged throughout the course of the project. These did not neatly fit within any single category but carry important implications for future recommendations and programmatic initiatives.

The first and perhaps most obvious observation is that drunk driving programs and countermeasures are not implemented in a vacuum. They are debated, adopted, rejected or implemented in a particular set of circumstances which are apt to be unique to a state or locality. These systemic factors exert a powerful influence over the success of any given drunk driving countermeasure, but often lie largely outside the control of those who are assigned responsibility for implementing them. Examples of such systemic features include the organization of the court system, the decentralization of political authority within a state, and the provisions of a state constitution.

When asked, for instance, what factors might account for New Jersey's success in combatting drunk driving, several respondents cited the state's unified court system. Respondents in North Carolina, on the other hand, identified their state's archaic, convoluted court system as a principal impediment. In California the tradition of strong county government creates problems of uniformity in handling DWI offenders and makes it more difficult for the state to mandate countermeasures, especially those that require the expenditure of county funds. Oregon faces limitations of a different

nature; there, the state constitution limits both state budget growth and the number of state employees. Even when funds exist for new DWI programs, the state cannot hire additional personnel to implement the programs without making corresponding personnel cuts in other areas.

Policymakers charged with the development of a national strategy to fight DWI need to be sensitive to these systemic features. Among the survey respondents, there was a sharp division of opinion over whether the federal government ought to be more flexible with its supplemental grant criteria. Of the respondents who discussed the issue, 52 percent stated that greater flexibility in meeting grant criteria would be helpful, while 48 percent encouraged more mandatory compliance requirements, more federal legislation, or more federal withholding of funds to encourage implementation of recommended drunk driving countermeasures.

One of the more controversial federal grant criteria was the requirement that states mandate a "hard" license suspension for DWI offenders. Officials from rural states where little mass transportation exists appear particularly concerned about mandatory license sanctions. One interviewee from Minnesota claimed that a hard license suspension would not strengthen the deterrent effect of the law; those social drinkers capable of being deterred will be deterred by the fines, embarrassment and expense of going to court, while repeat offenders will merely continue to drive without a license. Indeed, in rural states such as Vermont and New Mexico which have mandatory

license suspensions, driving on a suspended license was cited as one of the state's major problems.

The difference between rural and urban areas emerged as a consistent theme in both the survey and the interviews. Public officials in rural areas in general face greater impediments than their urban counterparts. Enforcement of drunk driving laws in rural areas is made more difficult by the distance that law enforcement officers may have to travel to bring an arrested driver to a station for testing. The time that elapses can be significant both from a testing point and in terms of officer down time. Waiting for a tow truck to arrive at the scene takes further time.

If rural communities pose special problems for enforcement, they may possess special attributes when it comes to community organizing. In Nebraska we found a successful program that revolved around the development of Community Prevention and Intervention Teams. According to one observer familiar with the program, the CPI Teams tend to have a greater impact in rural than urban areas. In rural communities it is easier to involve leading community figures; in larger cities, it becomes more difficult to attract the involvement of the mayor, police chief, and other public officials whose support is crucial.

Another general topic to emerge was the subject of alcohol advertising. Among the survey respondents, alcohol advertising was cited as a problem with modest frequency, although it did not emerge as a major obstacle in response to any of the survey questions. There seemed to be greater recognition that alcohol advertising may pose a problem than consensus about what,

if anything, ought to be done. While 9 percent of the respondents cited it as a problem, only 5 percent advocated banning or regulating it. The survey respondents similarly perceived a low level of public support for a ban on alcohol advertising. 72% of the respondents believed that there was low or no public support for a ban on alcohol advertisements, although 43% felt that there was medium to high public support for regulating the content of alcohol ads.

A final topic of general concern was the subject of drugs. A number of separate sub-themes emerged. On the survey, respondents made relatively few references to the problem of drugged driving. When the subject of drugs did arise, it was most frequently in the context of competition for scarce resources. For example, in states where DWI arrests have fallen off since 1983, the second most frequent explanation for the decrease was the declining attention given to the problem of drunk driving in the face of competition from drugs and other problems. Similarly, when respondents were asked about obstacles hindering the dissemination of public information on drunk driving, the fourth most frequent response was "competition from other social problems such as drugs and AIDS."

In the course of the interviews, several additional themes relating to drugs emerged. First, those interviewed expressed concern about the problem of drugged driving. Polydrug use was thought to be a significant highway safety problem and deserving of greater attention. Treatment professionals, in particular, were quick to point out the frequent need to treat DWI offenders for drug as well as alcohol

problems. According to one respondent, the majority of offenders under the age of 40 who are referred for treatment are polydrug users. Second, not all individuals saw the current attention given to the issue of drugs as a problem, nor did they see the issue of drugs strictly in terms of competition for scarce resources. Instead, they recommended that organizations concerned about drunk driving attempt, as one respondent declared, to "ride on the coattails" of the drug issue by emphasizing the fact that alcohol is a drug and that the problems of illegal usage of controlled

substances and substance addictions are similar. Respondents also strongly urged the federal government to permit the expenditure of federal drug funds for alcohol countermeasures. Finally, interviewees approvingly cited legislation which has facilitated the prosecution of drug offenders and the confiscation of property. They suggested that these types of drug laws could serve as models for the prosecution of DWI offenders and, particularly, for vehicular confiscation in the case of multiple offenders.



## TECHNICAL SUMMARY

This project began with the dual purpose of reviewing the drunk driving countermeasures of the past five years and formulating, with an assessment of past years efforts in mind, a set of recommendations for the next five years. Having talked with numerous public officials and surveyed hundreds of individuals in all 50 states, we recognize that no single plan, no matter how comprehensive, can possibly address the needs and problems of all states. Our study uncovered an array of obstacles that impede drunk driving efforts, and an equally great number of ideas about how best to address them. When widely divergent opinions exist about the merits of such "standard" countermeasures as sobriety checkpoints and hardship licenses, one should not expect to find consensus about such new and relatively untried initiatives as license plate confiscation or self-sufficiency financing.

The opportunity this project provided for reexamining the Presidential Commission recommendations leads us to our first, preliminary endorsement. We strongly encourage all states to reexamine the PCDD recommendations. It is our belief that those 39 recommendations continue to have great merit and hold the promise for continued reductions in drunk driving deaths. They still provide a sensible blueprint for a systems approach to a continuing social problem.

In this project we originally had hoped to use highway crash statistics as an indicator of the success of state programs. We found, however, that the existing data was inadequate and that any comparisons based on it would be unreliable. When word got

out that we might judge states according to their alcohol-related crashes statistics, it provoked consternation. State officials called to explain why we should not consider the statistics reflective of the actual situation in their state. Their concern highlighted the inadequacy of our data on alcohol-related crashes and the lack of uniformity in the way states define and collect this information.

If more states were upgrading their data collection abilities, this problem would be less worrisome. We could afford to be patient, knowing that states were working to improve the reliability and uniformity of their crash statistics. Our "Checklist of 19 Priority Countermeasures" in Section III of this report indicates that the number of states which test 80 percent or more of their dead drivers has decreased from 32 states in 1985 to 28 states in 1989. Moreover, we need better information not just on deceased drivers but on surviving drivers as well. Unfortunately, in the absence of a federal directive, states apparently have insufficient incentive to expend the necessary funds to improve this important record keeping function. Nonetheless, we again enjoin states to implement the Presidential Commission recommendation and mandate alcohol and other drug testing of 1) all drivers fatally injured and 2) drivers involved in serious injury crashes where there is probable cause to suspect alcohol involvement.

We believe that the findings documented in the previous sections reveal four priority areas that deserve attention. Each of these areas emerged as a critical problem, and for each we propose a number of

recommendations. Not every state or community necessarily will suffer from problems in each area, but the problems are sufficiently widespread that we believe they ought to constitute the focus of any national plan. The four areas are 1) funding, 2) overburdened court systems, 3) recidivism, and 4) the need for effective enforcement.

## 1. FUNDING

The need for a systems approach to the problem of drunk driving has a well-established history. The failure of the education/treatment oriented strategies of the 1970's led to the recognition that a multifaceted approach to the problem is needed, but such an approach is expensive. In our interviews, we heard of many good programs that disappeared when federal funding ended. The REDDI (Report Every Drunk Driver Immediately) programs, whose concept we strongly endorse, proved to be one such casualty in several states.

The problem of inadequate funding is widespread, though not universal. State officials in Oregon and New Jersey reported that their states appear to be exceptions and had sufficient funding for drunk driving programs (New Jersey because of its self-sufficient funding program, Oregon because of the state's current economic prosperity). The majority of survey respondents, however, did report problems arising from a lack of funds. 54 percent of the survey respondents stated that lack of funding and manpower hindered enforcement programs; 53 percent said that lack of money hindered the dissemination of public information; 54 percent declared that it impeded the development of prevention programs. In fact, survey respondents cited the lack of funds

as an obstacle more frequently than any other single response.

To meet this funding challenge, the National Commission strongly encourages states and communities to develop creative user-funded programs. The term user-funded has become a catchall phrase used to describe a variety of different funding mechanisms. Behind the variety of mechanisms, however, stands the basic premise that the cost society incurs in combatting problems like drunk driving should be borne by those who cause the problem. The advantages of user-funded programs are clear. Not only do they shift the financial burden of responsibility from the general taxpayer to those who are responsible for the costs, they also ensure a stable funding source independent of the vagaries of legislative appropriations. The NCADD is delighted that NHTSA has decided to encourage self-sufficient financing by including it as a criterion in its 410 supplemental grant criteria. We encourage all states to work toward the establishment of such financing arrangements.

A number of state models for self-financing exist, among which the best known are those in New York and New Jersey. New York's STOP DWI Program was implemented in 1981 as a means of providing county governments with funds to combat drunk driving. Funding is derived from a \$350 minimum fine for DWI convictions that raises \$20 million annually for enforcement and treatment programs. To qualify for a portion of the funds, each county must appoint an alcohol coordinator and prepare a plan for the use of the funds. The state reviews the plans and offers recommendations and technical assistance to the counties. Survey

respondents from New York expressed general satisfaction with this financing mechanism and recommended that other states adopt similar programs.

The state of New Jersey employs a somewhat different approach to self-financing that capitalizes on multiple revenue sources. In New Jersey the offender is required to pay a variety of fees. In addition to a fine, all first and second time offenders are required to pay a \$100 surcharge that goes into a Drunk Driving Enforcement Fund. Offenders must also pay a \$100 administrative fee to cover the cost of a mandatory two-day alcohol assessment program. Finally, offenders are required to pay a \$1000 per year insurance surcharge for three consecutive years following a DWI conviction. The insurance surcharge is collected by the State Department of Motor Vehicles and goes to an assigned risk pool for joint underwriting of drivers.

Offender fines and fees such as New York and New Jersey levy are an important source of revenue for DWI programs, but by themselves they would not ensure self-financing in most states because the population of offenders who are arrested and convicted is simply too small to generate sufficient revenue to offset the expenses for enforcement, prosecution, adjudication, assessment and treatment associated with drunk driving programs. (ASAP studies estimated that police manage to apprehend only between 1 in 200 and 1 in 2000 offenders.) Therefore, a number of states such as New Jersey and Utah have turned to alcohol beverage taxes as a source of revenue. In New Jersey the tax is imposed at the wholesale level and generates \$11-12 million per year. Added on top of the regular tax the

state collects, this dedicated revenue tax is apportioned three ways: 85% of the money goes to counties for enforcement, treatment and counseling; 10% goes into the Drunk Driving Enforcement Fund; and 5% goes to a Court Assistance Fund to support the expenses of the municipal courts and the administrative office of the courts. Survey respondents defended the imposition of such dedicated taxes, arguing that national studies estimate 10 percent of the population drinks 50 percent of the total alcohol consumed in the U.S. Alcohol taxes, they argued, are therefore a form of user fees, requiring those who are most likely to cause problems down the road to pay for some of the costs up-front.

While New York and New Jersey possess two of the most comprehensive self-financing mechanisms, other states have experimented with user-funded programs which were recommended as models by officials in their respective states. Colorado, for example, has established a Law Enforcement Assistance Fund (LEAF) which is a state-funded program that provides money for special law enforcement initiatives. The fund is supported by a \$65 fee that all convicted drunk drivers are required to pay. Money from this fund is handled in a similar way to 402 funds. 80% of the monies are dispersed through the office of the Governor's Highway Safety Representative, while 20% are dispersed through the Alcohol and Drug Abuse Division of the State Department of Health. Funding is provided on a three-year on, one-year off, three-year on pattern. Approximately 40 grants are awarded each year to police and sheriff departments. State patrol activities are not funded since the purpose of LEAF is to encourage local law enforcement efforts.

A final user-funded program which the National Commission found noteworthy was developed in California. In 1986 the California legislature passed the Emergency Response Cost Recovery Act, a law which authorized public agencies to recover the cost of emergency services resulting from the use of alcohol and drugs. The legislature permitted agencies and municipalities wide latitude to implement the Act, and so the guidelines established vary from one location to another. The California Highway Patrol (CHP), for instance, has taken a narrow interpretation of the law and only seeks to recover costs if a crash occurs. CHP bills only the party determined to be responsible for the crash, thereby requiring a conviction.

The city of San Jose, on the other hand, bills offenders for the costs associated with an arrest, not just a crash. These expenses include: the officer's time from arrest through completion of booking, gasoline and mileage calculated from the point of arrest, and emergency medical services if any were necessary. On average, these items total about \$200 per arrest and \$2000 per crash. San Jose, moreover, does not require a conviction for the offender to be held responsible for these costs. Anyone charged with DWI is required to pay, meaning that a prosecutor only has to decide to press charges in order for the offender to be billed. About 30% of the offenders who are charged are delinquent in paying for these costs. When this happens, the county or municipality engages a private collection agency, and they pursue the uncollected fee just like any other failure to pay creditors. If an offender continues to refuse to pay, it can result in a ruined credit

rating. The virtue of this procedure is that it establishes a civil rather than a criminal cost reimbursement requirement, and therefore never requires the involvement of an already overburdened court system.

The National Commission recommends that states explore the possibility of adopting California's approach to the problem of uncollected fines and fees and use collection agencies when possible. The threat of a ruined credit rating provides an added incentive for payment and might reduce the percentage of uncollected fines and fees.

In the course of our surveys and interviews, respondents offered a number of other suggestions for user funded programs. They recommended that licensing fees for alcohol beverage retailers be sufficient to cover the cost of ABC enforcement. In North Carolina, for instance, a lifetime license to dispense beer costs \$100, less than the cost of a one-year vendor license for ice cream. Unjustifiably low fees such as this should be raised to reflect the true cost to the state of its regulatory functions.

Respondents also recommended that statutes mandating point of sale information on drunk driving be enacted and licensed beverage retailers be charged a fee for the production cost of the signs and posters to be displayed. They recommended that server training be mandatory and that the owners of license establishments be charged a fee to cover the cost of the training for their employees. Finally, respondents recommended that DWI offenders be charged a fee to cover the cost of having their name and address published in the local

newspaper. These and many other imaginative user funded initiatives are available to states. The National Commission recommends that state and local authorities explore these alternatives in an effort to find ways to shift the cost of drunk driving countermeasures from the general public to those who share responsibility for the existence of the problem.

## II. The Court System

The second major locus of obstacles centered on the court system. The survey respondents and interviewees identified a host of obstacles, many of them interrelated, having to do with the courts, judges, and prosecutors. At the heart of the situation seem to lie two principal problems: 1) an overburdened court system incapable of effectively handling the case load, and 2) a lack of training provided to prosecutors and judges on the problem of drunk driving.

The problem of an overburdened court system was widely cited by respondents, but it is not a problem for which any universal solutions appear to exist. Court systems and legal statutes vary so greatly that each state would have to undertake its own analysis of the problem in order to arrive at a prescription for the improvement of its courts. All that we can offer in this section are three broad goals which we believe should guide court system reform, as well as a few examples of the type of procedures which we believe need to be changed in order to establish a criminal justice system that effectively prosecutes and adjudicates drunk driving offenders.

Efforts to overcome blockages in the adjudicatory process ought to be directed toward three goals. The

first goal is to remove features of the present system which favor the defense at the expense of the prosecutor. According to respondents in many states, the court system is skewed in favor of the defendant and establishes institutional obstacles that unnecessarily hamper the prosecution of drunk drivers. One example cited by respondents is the practice of permitting defense attorneys to ask for an unlimited number of continuances, while denying this right to prosecutors.

Exploiting this privilege, defense attorneys may request continuance after continuance, forcing the arresting officer to make multiple appearances in court in the hope that at some point the officer will not be able to appear and the case will be dismissed. A respondent from Louisiana stated that as many as 15-20 continuances have been requested in trials for first offense DWI in that state. Possible remedies to this abuse include limiting each side to one continuance or requiring the offender to pay the cost of the officer's time if the defense requests more than one continuance. Whatever the specific solution, the aim of the outcome must be to achieve a balance between the need to protect the legitimate rights of defendants and the need to protect the community from the dangers of drunk driving.

The second goal of court system reform should be to amend features which contribute to inequalities before the law. As a matter of fairness, a suspected offender's chances of being charged with an offense should not depend upon the vagaries of a prosecutor's schedule. The introduction of plea bargaining in DWI cases introduces an added element of arbitrariness. Plea bargaining also contributes to the problem of court overcrowding. When prosecutors possess the authority to

plea bargain or charge bargain, defense attorneys typically advise their clients to request a jury trial, hoping to swamp the court system and thereby force the prosecutor to cut a deal because of case overload. Time limits designed to encourage speedy trials work in this situation to the defendant's advantage; prosecutors would rather obtain a guilty plea to a reduced charge than see the charges against a DWI offender dismissed because an overcrowded calendar prevented the case from being brought to trial within the specified time frame.

The simplest way to address the problems created by plea bargaining is to statutorily prohibit it. Eleven states have laws banning plea bargaining in drunk driving cases, while four other states have laws which ban it in some circumstances (e.g. when a defendant's BAC is over .20). Two states - New Jersey and Delaware - do not ban it statutorily, but in each state the Attorney General has promulgated a no-plea-bargaining policy among prosecutors. The National Commission applauds these efforts and encourages other states to enact similar laws or policies. Experience has shown that when a ban on plea bargaining is implemented, the number of defendants requesting jury trials actually declines.

A number of states which have been reluctant to ban plea bargaining entirely have devised an alternate strategy for dealing with the problem. They permit offenders to plead to a lesser alcohol-related offense. The NCADD, of course, finds this practice preferable to permitting an offender to plead to a non-alcohol related offense, but would still prefer states to enact an outright ban. If plea-bargaining to a lesser alcohol offense is

permitted, states should follow the practice of California and count the lesser offense as a previous DWI for purposes of license sentence enhancement should the offender be arrested for a subsequent offense. Offenders should not be permitted to plead to a non-alcohol related offense. Furthermore, the prosecutor should be required to state in the public record the reasons why a DWI charge was reduced or dismissed.

A second feature that serves to increase the requests for trials is the policy of granting hardship licenses. The Presidential Commission recommended that all license suspension be mandatory and that exceptions not be granted for work-related driving privileges. The NCADD continues to support this position. Although proponents of hardship licenses declare that their abolishment would increase the requests for trials (or hearings if the suspension is administrative), we believe that in the long term the number of offenders who contest the charges would drop. The existence of hardship licenses often acts as an incentive for a suspected offender to contest DWI charges and appeal the decision; with the abolishment of hardship licenses, we might not only relieve court congestion but also strengthen the deterrent effect of the license sanction.

As with the prohibition on plea bargaining, we recognize that some legislatures will be reluctant to abolish the issuance of hardship licenses. In these cases we urge legislators to consider an alternative to their abolition which, though less satisfactory, would at least limit the issuance of hardship licenses. The State of Washington has pioneered one such approach. In Washington first time DWI offenders are given a mandatory 90 day license

suspension. After 30 days, however, they are eligible to apply for a restricted license for the remaining 60 days. In order to obtain a restricted license an offender must obtain two items: 1) a letter from the individual's employer verifying employment, and 2) a statement from the individual's insurance company stating that the offender has insurance and guaranteeing that the insurance company will notify the state department of motor vehicles if the offender's insurance should lapse. (This statement is known as an SR-22 form.) Because of the offender's reluctance to contact his insurance agency for fear of increased premiums, only 20 percent of the eligible offenders in Washington apply for a hardship license. The National Commission continues to advocate the original recommendation of the Presidential Commission that hardship licenses not be used; however, for those states that insist on the issuance of hardship licenses, we recommend that they consider implementing similar requirements to ensure that only those who have the greatest need for a limited license are issued one.

Plea bargaining and the issuance of hardship licenses are two procedures which tend to compromise the integrity of the judicial system by increasing the disparity between sentences handed down for the same crime. Pre-conviction diversions and postponement of judgments are detrimental for the same reason, though many states continue to use them. In Washington, respondents reported the use of a "Stipulation to Facts and Agreed Order of Continuance" which result in deferred prosecution in exchange for an offender's agreement to participate in a treatment program, while in North Carolina respondents criticized the use of "Prayers for Judgment

Continued" which are used to postpone entry of judgment following a factual finding of guilt, thereby allowing the defendant to escape the license revocation, court punishment, and insurance premium triggered by an impaired driving conviction. The disparities in sentences that result from these types of court orders threaten to undermine the integrity of our judicial system in two ways. Not only do they lessen the specific deterrent effect of the sentence on the individual; they also perpetuate the belief, among other offenders and defense attorneys, that the system "can be beaten," and thus encourage legal tactics that consume valuable court time.

The third and final goal of court system reform should be to remove as many licensing sanctions as possible from the hands of the court and transfer them to the authority of a state agency such as the department of motor vehicles. Respondents suggested that the loss of license is one of the most feared punishments. When that penalty is imposed administratively, offenders have much less incentive to contest a charge of DWI. Administrative license sanctions therefore serve to expedite the flow of cases by reducing the number of requests for jury trials. In addition to their salutary effect on the caseload, administrative license sanctions possess the added attractions of being imposed both more consistently and more quickly than criminal license sanctions. They are not subject to plea bargaining nor, in most cases, to continuances or long appeals. These features suggest that they therefore may carry greater specific deterrent effect. For all of these reasons, the National Commission strongly recommends that the 23 states which do not currently employ administrative license sanctions

initiate legislation authorizing their use.

An overcrowded court system was one of two major obstacles associated with the prosecution and adjudication of DWI offenders. The other major obstacle concerned the individual behavior of judges and prosecutors. The survey respondents evinced widespread dissatisfaction with what they considered to be the leniency and apathy of judges. The perception that judges are insufficiently tough on DWI offenders was probably responsible, in part, for the large number of respondents who advocated the increased use of mandatory sanctions. While the National Commission recognizes that mandatory sanctions have a certain appeal and may be appropriate in some circumstances, we believe that our attention should first be turned toward ensuring that judges and prosecutors are provided with adequate information about the nature of drunk driving, as well as regular updates on any statutory changes regarding the offense.

Among the states that reported providing judges information on a regular basis, Minnesota seems to have one of the most complete approaches. It apparently is one of the few states in which the State Supreme Court convenes an annual meeting of judges to inform them about the developments in case law and changes in the statutes regarding drunk driving. In addition, after each legislative session there are Continuing Legal Education courses for prosecutors, judges, defense attorneys, and law enforcement officers. In Minnesota the Attorney General's office is deeply involved in providing information to court personnel; in other states training on drunk driving may be provided by the Division of Alcoholism or the

Office of Highway Safety. Whoever provides the information, the National Commission recommends that in every state one agency be designated with the responsibility for coordinating the information and for compiling a manual that summarizes the case law, informs judges how to try DWI cases, and provides updates on legislative changes. Because of the high turnover among the judges and prosecutors who typically try drunk driving cases, this manual ought to be updated every year and training similarly provided on an annual basis.

### III. Recidivism

By common consensus, recidivism poses one of the most intractable problems confronting those who work to reduce alcohol-related crashes. The severity of the problem is open to wide debate. Among the state officials we interviewed, there was a considerable difference of opinion over the extent of the problem posed by repeat offenders. While some stated that we will never meaningfully address the problem of drunk driving unless we manage to address the problem of recidivism, others believed that recidivism did not constitute a major problem within their state. Even among the members of our own Assessment Project Advisory Committee, there existed a visible difference of opinion. Judge Kramer of the Quincy District Court in Quincy, Massachusetts, declared that 82 percent of the first offenders who came through his court were problem drinkers or alcoholics; on the other hand, Dr. Vincent Pisani of the Central States Addiction Institute maintained that a far lower percentage of first offenders in his county were problem drinkers. Perhaps, the difference of opinion reflects differences in populations;



or perhaps we simply do not know enough about the population of Americans who drive impaired.

The National Commission believes that measures to address the repeat offender deserve the highest priority. The first step in addressing this problem is to institute procedures to ensure that one can identify a problem drinker when he or she enters into the court system for the first time. Therefore, all DWI offenders should be required to undergo a mandatory alcohol assessment. If the assessment detects an alcohol problem, treatment too should be mandatory. At this point it is imperative to have good communication between the courts and treatment providers, so that bench warrants can be issued if the offender violates the terms of the treatment program. Finally, before an offender's license is returned, the treatment provider should certify to the licensing authority that the offender has satisfactorily completed the program.

Treatment for alcohol and drug problems is widely recognized to be a very inexact pursuit. Even under the best of conditions only a minority of problem drinkers will be rehabilitated without relapsing. Strict sanctions are therefore needed to deter a problem drinker from recidivating or, if deterrence fails, to restrict the offender's driving ability. In keeping with our firm belief in the need to relieve overburdened court systems, we recommend the adoption of a progressive set of administrative sanctions. Beginning with administrative license sanctions for first offense, the sanctions would progress to license plate impoundment for a second offense or for driving on a withdrawn license. A third DWI offense or second offense for

driving on a suspended license would be punishable by car impoundment, either through the use of a Denver boot or by impoundment in a secure car lot. These sanctions would be imposed by the department of motor vehicles in conjunction with the appropriate criminal sanctions. Any further offenses should result in vehicle forfeiture.

In addition to mandatory assessment and progressive administrative sanctions, the National Commission suggests that states consider the possibility of criminalizing chemical test refusals by repeat DWI offenders. According to a respondent from Minnesota, the most frequent type of DWI case to go to trial is a repeat DWI offender who has been stopped and refuses to take a breath or blood alcohol test. Because of the offender's tolerance to alcohol, he may perform passably a Field Sobriety Test. In the absence of chemical test results and because the jury knows nothing of his past record, the offender may go free. To address this problem, Minnesota, along with four other states, has made it a crime for a repeat offender to refuse an alcohol test. If such statutes withstand constitutional challenges, the National Commission encourages other states to adopt similar legislation.

#### IV. Enforcement

The final area which the National Commission recommends for immediate attention is law enforcement. Consistent, visible enforcement is a prerequisite to any successful anti-drunk driving campaign. Though conclusive evidence is lacking, many respondents remained convinced that alcohol-related fatalities are inversely proportional to arrest rates.

Survey respondents offered a number of suggestions for maximizing enforcement. The National Commission endorses these suggestions and encourages communities to work toward their implementation.

First, work to eliminate or modify policies that create disincentives for enforcement. The greatest disincentive, of course, is the amount of time consumed by an arrest for DWI. Suggestions for minimizing down time included the use of central intake centers where an arresting officer can simply drop off an offender for testing and videotaping. Officers, furthermore, should be permitted to administer the test of their choice, rather than having to drive an offender to a hospital if the offender requests a blood test. Statutory requirements for sequential testing should be eliminated; not only are they time consuming but with the sophisticated and highly accurate testing equipment available today, they are unnecessary.

In addition to streamlining arrest and booking procedures,

courtroom and administrative hearing procedures should be organized as efficiently as possible. Officers should not be required to attend routine administrative license hearings in person but should be able to submit a sworn affidavit. They should be able to reschedule a hearing or ask for a continuance if they cannot attend for good cause. The administrative office of the courts should consider hiring a full-time liaison to coordinate the courtroom appearance of officers. DWI cases could be set aside for a certain day(s) of the week so that officers could know well in advance which days they will have to appear. Finally, officers need good breath testing equipment. Respondents in several states testified to the improvement in officer morale and performance when older testing equipment was replaced by infrared breathtesting equipment. Not only does such equipment permit the officer to learn immediately whether the driver he has arrested actually is over the legal limit, it also eliminates the backlog that can develop at laboratories handling breath or blood samples.

## RECOMMENDATIONS

We believe that the survey findings reveal four major obstacles which deserve priority attention. These four obstacles - a lack of funding, an overburdened court system, the problem of recidivism, and the need for effective enforcement - impede efforts to bring about further reductions in the incidence of drunk driving and threaten to undermine the success of anti-drunk driving programs. From the evidence supplied by the survey and interviews, these obstacles appear to be widespread.

To address these problems, we believe that states need to reconvene the Drunk Driving Task Forces which, in the early 1980's, not only spurred the passage of new drunk driving laws but focused public attention on the issue and prompted the development of many worthwhile projects. Most of those Task Forces were given a temporary mandate and disbanded upon the completion of their assignments. We believe that it is time to reactivate these Task Forces for the purpose of assessing the adequacy of the existing legislation and evaluating the success of their state's anti-drunk driving programs. In addition, reactivated Task Forces would offer the opportunity to bring together new players such as employers, public health officials and citizen activists who might not have been involved in the early Task Forces and could explore facets of the issue such as drugged driving which received little attention in the early 1980's.

The recommendations that follow are divided into two categories. The first set of recommendations address the four major obstacles which we believe require priority attention: funding, adjudication, recidivism, and enforcement. The second set of recommendations consists of additional measures which we think states and communities ought to consider as they review their present programs. Many of these recommendations were offered by the survey respondents or interviewees and merit our endorsement.

### **I. PRIORITY AREAS**

#### **1. FUNDING**

The NCADD recommends that all states develop creative user-funded programs, so that the cost of combatting drunk driving is shifted from the general public to those who share responsibility for the problem. New York and New Jersey have implemented self-sufficient funding programs which can serve as models to other states. We believe that the mix of funding mechanisms ought to be left to individual states to decide; but among the funding sources which states should consider are:

- a \$100 Drunk Driving surcharge (separate from criminal fines)
- insurance surcharges
- emergency cost recovery fees
- dedicated alcohol beverage taxes

Other fees should be mandatory, and we encourage all states to adopt them. These include:

- fees to cover the cost of a mandatory court-ordered alcohol assessments for all DWI offenders
- fees to cover the cost of having an offender's name and address published in the local newspaper
- licensing fees for retail licensed alcohol vendors that reflect the true cost to the state of its regulatory functions and cover the cost of ABC enforcement

The concept embodied in California's Emergency Response Cost Recovery Act should be expanded and applied to other areas. Convicted DWI offenders, for instance, could be required to pay for the cost of a police officer's time when an officer is required to make multiple court appearances because of continuances requested by the defense.

Because collection of fines and fees is so often a problem, we endorse the idea contained in California's Cost Recovery Act of turning delinquent accounts over to private collection agencies.

## 2. The Court System

Overburdened courts are widely perceived to constitute one of the chief blockages in our criminal justice system. The NCADD strongly recommends that state and local authorities assess the court systems within their jurisdictions to determine whether action is needed to reduce the backlog of DWI cases and ensure case loads of manageable proportions.

To remove incentives for delaying tactics and encourage swift, certain and sure sentencing, the NCADD recommends that states:

- restrict the number of continuances in DWI cases
- provide prosecutors and defense attorneys with an equal number of continuances
- eliminate or greatly restrict plea bargaining in DWI cases
- prohibit suspected DWI offenders from pleading to a non-alcohol-related offense
- abolish the issuance of hardship licenses
- institute insurance company notification requirements and employer verification procedures if hardship licenses are issued
- prohibit pre-convictions diversions and other judicial dispositions which enable suspected offenders to escape conviction for a DWI offense

- establish a separate administrative system for driver and vehicle licensing sanctions that would be imposed independent of criminal penalties

Judges, prosecutors and other court personnel should be provided with regular, updated information on drunk driving:

- A single state agency should be charged with the responsibility for coordinating information sessions for court personnel on drunk driving and printing an annual manual that summarizes the current case law and legislation.
- The same designated state agency should be assigned responsibility for ensuring that regular training is provided to entry level prosecutors and judges. Programs could be implemented to train experienced prosecutors to conduct DWI seminars for incoming prosecutors, judges, and police officers.
- The State Chief Justice or highest appellate judge in each state should convene an annual meeting of judges to review the progress and problems involved in adjudicating drunk driving offenses

### 3. Recidivism

The NCADD believes that measures to address the problem of recidivism deserve high priority. Greater efforts must be made to detect problem drinkers, identify multiple offenders, and remove them from our roads. The NCADD recommends:

- All DWI offenders be required to undergo a mandatory alcohol assessment. If the assessment detects an alcohol problem, treatment too should be mandated.
- States should count certified out-of-state DWI convictions as prior offenses when charging a defendant for drunk driving. In many states only in-state convictions may be used to establish prior offenses. The ability to use out-of-state convictions would result in the imposition of penalties appropriate to the offender's actual driving record and would close a loophole that allows some repeat offenders to be sentenced as first-time offenders.
- The state driver licensing authority should be authorized to impose progressive administrative sanctions designed to restrict the driving ability of multiple offenders. These penalties should be independent of any criminal sanctions and should escalate in severity and duration for each DWI offense.
 

First offense DWI	- administrative license suspension
Second offense DWI or Driving on a Suspended License	- license plate confiscation
Third offense DWI or second offense DSL	- vehicle impoundment
any subsequent offenses	- vehicle confiscation

- Formal modes of communication between treatment providers and the court system should be established so that judges can apply contempt of court provisions to all offenders (including first offenders) for failure to comply with court-ordered treatment.
- The state driver licensing authority should require written certification from the treatment provider that a DWI offender has satisfactorily completed the treatment program before reinstating the offender's driving privilege.
- States should follow Oregon's lead and require multiple offenders to obtain a probationary driving license before the restoration of full driving privileges. This license should follow a hard license revocation, not substitute for it. During the probationary period, drivers should be issued distinctive license plates or tags so as to facilitate police identification of their vehicles.

States should enact legislation making it a criminal offense for repeat DWI offenders to refuse to submit to a chemical breath, blood or urine alcohol test. The criminal penalties should be imposed in addition to administrative license sanctions.

States should standardize criteria for admission, discharge and referral to treatment centers. This information should be published in a periodically updated manual on DWI treatment procedures and requirements. An appropriate state agency should be authorized to regulate and monitor these providers to ensure adequate treatment for those under the jurisdiction of the courts.

In order to identify recidivists and impose appropriate sanctions, drunk driving charges must remain on a driver's permanent record. Ideally, alcohol-related driving offenses should not be erased. At a minimum, alcohol-related offenses ought to remain on a driver's record for ten years.

To obtain better information about the population of drivers who are arrested for drunk driving, the State Highway Safety Office should establish pilot projects to computerize the conviction data of district attorneys. This data should be used to gauge post-treatment recidivism.

#### 4. Enforcement

Arrest, testing, and booking procedures need to be made more efficient so as to reduce office downtime and remove disincentives to the enforcement of DWI laws.

- State law should permit law enforcement officers to administer the chemical test or tests of their choice to suspected DWI offenders, rather than giving the choice to the driver.
- Laws that require sequential alcohol testing should be revised to permit charges based upon a single evidentiary blood or breath test.

- Law enforcement officers should not routinely be required to attend administrative hearings in person but instead should be able to submit sworn affidavits or video testimony.
- Law enforcement agencies should make the purchase of state-of-the-art breath testing equipment a priority so as to facilitate detection and arrest of suspected offenders and reduce the backlog that may occur when test results have to be sent to outside laboratories for analysis.
- The administrative office of the courts should consider hiring a full-time liaison to coordinate the courtroom appearances of law enforcement officers.
- Courts which adjudicate DWI cases should consider setting aside certain day(s) of the week so that officers would know in advance on which days they will have to appear in court

## II. ADDITIONAL RECOMMENDATIONS

In addition to the recommendations offered in the four prioritized areas above, the National Commission urges states and communities to implement the following countermeasures.

States should authorize mandatory testing for all drivers in fatal and serious injury crashes where there is probable cause to suspect alcohol involvement, as well as for all fatally-injured drivers.

- NHTSA should encourage states to standardize test data and the manner in which it is collected.
- State and local law enforcement agencies should make officer training in the area of accident investigation a high priority. All officers should be trained to be alert to evidence of alcohol consumption. Enforcement agencies should consider the use of special, multi-jurisdictional investigation teams, so that well-trained officers can be on the scene of all serious crashes.
- The State Highway Safety Offices should establish pilot programs with Medical Examiners' Offices to determine prior DWI convictions of drivers fatally injured in vehicular crashes.

All states should enact mandatory safety belt laws. In states where mandatory belt usage laws have been repealed, public officials should work through employers, the local media and traffic safety organizations to promote greater public awareness about their beneficial use. Safety belt laws should be subject to primary, not secondary, enforcement.

Extensive DWI training should be provided to all law enforcement officers:

- Police Academies should ensure that their curriculum incorporates instruction on drunk driving detection, testing, and testifying,

including Standard Field Sobriety Testing that meets NHTSA and IACP standards.

- State DWI Task Forces should review the level of training that is provided to new recruits and encourage cooperative training efforts. The State Highway Safety Office or the Attorney General's Office could be encouraged to provide regular updates on drunk driving legislation and case law and could develop training films for police officers on proper testimony regarding breath testing equipment.
- State Police should be encouraged to share their expertise with county and local enforcement officers through the establishment of joint road block operations.

State should amend laws which require the prosecution to determine the level of intoxication at the time of the driver's arrest. The prosecution of suspected DWI offenders is hampered in states where the police must determine how drunk a person was at the time of arrest. The results of an evidentiary test in these states is not adequate by itself to bring about a conviction. State law should be amended so that the prosecution only has to prove that the driver's BAC level exceeded the state per se level and that the driver was operating a vehicle within two hours of the time of arrest.

States should enact legislation to revoke the licenses of youth under age 21 who are convicted of illegal alcohol or drug possession.

States should work to ensure the existence of universal server/management training for all retail alcohol vendors:

- States should undertake studies to determine how universal server training can best be implemented in their area.
- Licensed retail establishments should be charged a fee to cover the cost of server training for their employees.
- A federal interagency committee should be established to develop National Alcohol Server Training Standards.

Unobligated 402 funds should not be diverted into highway construction projects but should be reserved for future traffic safety programs.

Federal, state and local governments should provide technical support to citizen activist organizations. Citizen activist organizations have played a key role in focusing legislative, judicial, prosecutorial, and media attention on the problem of drunk driving. Survey respondents identified citizen groups as having exercised primary leadership on the issue of drunk driving. Their continued efforts deserve government support.



## CONCLUSION

This study of state and local drunk driving countermeasures began with the goal of answering four questions:

- 1) To what extent have the Presidential Commission recommendations been implemented?
- 2) What obstacles have been encountered in efforts to implement drunk driving countermeasures?
- 3) How can these obstacles be addressed and overcome?
- 4) What else is needed to bring about further reductions in drunk driving crashes?

We are now in a position to summarize the answers to those questions.

According to the survey respondents, the Presidential Commission recommendations have achieved a modest level of implementation. Most states have made some effort to implement most of the recommendations. The level of implementation varies across categories. Recommendations dealing with the enforcement of DWI laws appear to have achieved the greatest degree of implementation, while recommendations targeting prevention measures have the lowest level of implementation. On average, enforcement recommendations received a rating of 3.2 (on a scale of 1-5 where 1 equals no implementation and 5 equals full implementation), compared to a rating of 2.4 for prevention recommendations (see page 25).

If we examine the 59 individual recommendations made by the Presidential Commission (some of the 39 recommendations had sub-parts), we again are led to the conclusion that, on the whole, the recommendations have achieved a modest level of implementation:

- 42 of the recommendations have achieved some degree of implementation in 70 percent of the

states;

- 27 of the recommendations have achieved some degree of implementation in 80 percent of the states;
- 22 of the recommendations have achieved some degree of implementation in 90 percent of the states.

While most recommendations have been partially implemented, only five have received anything approaching universal implementation.

- Mandatory child restraint usage laws have been implemented in all 50 states, the District of Columbia and Puerto Rico.
- A minimum drinking age of 21 has been established in all 50 states and the District of Columbia. It has not yet been established in Puerto Rico.
- Two or more questions relating to DWI have been included on the driver license exams administered by 48 states and the District of Columbia.
- A statewide uniform ticket system has been adopted in 45 states, the District of Columbia and Puerto Rico.
- An illegal per se level of .10 percent has been established in 44 states and the District of Columbia.

At the same time, very few recommendations remain widely unimplemented. Among those which have seen little activity are:

- Prohibitions on DWI plea bargaining which exist in only 11 states;
- Open container laws which exist in only 19 states;
- Mandatory BAC testing for surviving drivers involved in serious or fatal injury crashes, which has been implemented in only 19 states.

The second question we posed at the outset of the study concerned the obstacles that states and communities have encountered in implementing anti-drunk driving programs. A summary of the obstacles cited by survey respondents appears in

Appendix 5. A review of these obstacles reveals three major problems which were cited repeatedly: a lack of funding; an overburdened court system; and public disinterest in the issue of drunk driving.

A lack of funding was the most frequently cited obstacle. According to respondents, it seriously restricts the effectiveness of enforcement, licensing, public information and prevention activities. Many respondents also expressed concern over the fact that the court and corrections systems in their jurisdictions could not handle the DWI caseload. Plea bargaining, a lack of uniformity in sentencing offenders, lower police enthusiasm for DWI enforcement, and diminished deterrence were all cited as the by-products of a court system strained to the limits of its

capacity. Thirdly, respondents identified public disinterest in the issue of drunk driving as a problem. Public interest and support, they stated, is crucial to the passage of drunk driving legislation and to the success of prevention programs and efforts to educate youth about the dangers of drunk driving.

To gain a better perspective on these obstacles, it is helpful to compare them to the obstacles cited by traffic safety professionals a decade ago.<sup>1</sup> In 1979 the General Accounting Office conducted a survey of the highway safety representatives in all 50 states, the District of Columbia and Puerto Rico and asked them for their "views concerning the obstacles to combating the drinking-driver problem." In that survey the following ten obstacles were cited:

<u>Obstacles</u>	<u>Percentages</u>		
	<u>Yes</u>	<u>No</u>	<u>No Response</u>
Growing social acceptability and use of alcohol	79	21	-
Lack of adequate method to evaluate the success of the anti-drinking-driver campaign	77	23	-
Shortage of resources to minimize the drinker-driving problem	77	23	-
Lack of judicial system support to help solve the drinking-driver problem	73	25	2
A crowded court system inhibits increased drinker-driving enforcement	62	38	-
Lack of Federal leadership in the design and development of public information and education programs to combat the drinking-driver problem	56	44	-
Lack of effective methods to identify and penalize servers of alcohol who contributed to the drinker-driver problem	56	36	8
Lack of adequate commitment on the part of enforcement officials to solving the drinking-driver problem	54	44	2
NHTSA has not adequately informed the States of the relative success of other State and local drinking-driver programs	54	44	2
Lowered legal drinking age	37	63	-

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<sup>1</sup>The Drinking-Driver Problem - What Can Be Done About It? A Report to the Congress by the Comptroller General of the United

A comparison of these ten obstacles with the obstacles cited by our survey respondents reveals both similarities and differences, suggesting areas where progress has been made as well as issues requiring further attention. There was little criticism from our survey respondents, for instance, of the Federal government's lack of leadership or NHTSA's failure to disperse evaluation information to the states. On the contrary, when asked "what Federal activities have helped your state combat drunk driving," the second most frequent answer was "training programs and technical assistance provided by NHTSA." While few of our respondents mentioned the need for adequate methods to evaluate drunk driver programs, there were calls for more widespread evaluation of countermeasures. Similarly, not many of our respondents criticized the enforcement community for inadequate commitment, although some respondents did feel that the present level of enforcement had dropped off from a peak it reached several years ago.

The similarities between the two surveys are more striking than the differences. Respondents still complain of the social acceptability of drinking and driving and the lack of public interest in the problem. They were quick to remonstrate about the shortage of resources and funding, the crowded court system and the lack of judicial support. They also were critical of the alcohol beverage retailers and recommended the expansion of server training and dram shop statutes. When we asked how seriously various groups treated the problem of drunk driving, retail alcohol vendors ranked last, receiving a mean score of 2.2 on a scale of 1-5. While some obstacles have been removed, many of them are perceived to be the same today as ten years ago.

The existence of these obstacles

leads us to the third question that guided our inquiry: How can these obstacles be overcome? Without repeating the recommendations that we outlined in the previous section, let us merely reiterate our belief that these obstacles, while difficult and in some cases long-standing, are not insurmountable. We believe that the specific countermeasures outlined in this report can make a significant contribution to the elimination of these problems. In approaching these obstacles, however, we need a comprehensive plan of action and clear priorities for our limited resources. To say as much brings us to the fourth and final question we posed, that is, what else is needed to bring about further reductions in drunk driving crashes. The data gathered from our survey and interviews suggests that efforts to achieve further reductions are hampered by four major problems which, in turn, have generated a number of subsidiary obstacles. These problems, as we have stated, are 1) a lack of funding, 2) an overburdened court system, 3) the problem of recidivism, and 4) the need for effective enforcement. We believe that future efforts to reduce the incidence of drunk driving must focus on overcoming these obstacles and limitations.

In our haste to find new solutions to these problems, however, we should not overlook the value of the recommendations contained in the Presidential Commission Report. The findings revealed by this assessment suggest that its 39 recommendations have stood the test of time and are as relevant today as when they were first proposed. If anything, the recommendations are not wanting; rather, they have not been tried. We can only hope that this report may spur states and communities to reexamine the Presidential Commission Report and undertake a sustained effort to implement the systems approach it recommends.

## APPENDIX 1

### Use of Sobriety Checkpoints

The table on the following page indicates the survey respondents' perception of the use of sobriety checkpoints in their states in 1983 and 1989. According to the respondents, there has been an overall net increase in the use of checkpoints since 1983. 16 states indicate slightly more activity in 1989, while only 10 states report less activity.

The respondents were asked to rate both the frequency and extensiveness of the checkpoints.

As of September 1989, the constitutionality of roadside checkpoints had been decided in 33 states. In 21 states, appellate courts have held that the use of DWI roadblocks does not violate either state or federal constitutional provisions. Five of these cases have been appealed to the U.S. Supreme Court. The Court declined to review the first four cases but has agreed to hear arguments in the latest case of Michigan State Police versus Stitz. A decision is expected by the summer of 1990.

**Use of Sobriety Checkpoints  
1983 vs. 1989**

**Summary:** 16 States showed slightly more activity in 1989 than in 1983  
 10 States showed less activity in 1989  
 26 States showed no change in activity

	1983	1989		1983	1989
1. Alabama	0	1	27. Nebraska	1	1
2. Alaska	0	0	28. Nevada	0	1
3. Arizona	1	2	29. New Hampshire	1	0
4. Arkansas	0	0	30. New Jersey	2	2
5. California	0	1	31. New Mexico	1	2
6. Colorado	1	2	32. New York	0	1
7. Connecticut	0	1	33. N. Carolina	1	1
8. Delaware	1	1	34. N. Dakota	0	0
9. Florida	1	1	35. Ohio	0	0
10. Georgia	2	1	36. Oklahoma	2	0
11. Hawaii	2	4	37. Oregon	1	0
12. Idaho	1	0	38. Pennsylvania	0	1
13. Illinois	1	1	39. Rhode Island	1	0
14. Indiana	1	1	40. S. Carolina	0	1
15. Iowa	1	1	41. S. Dakota	0	1
16. Kansas	1	1	42. Tennessee	1	1
17. Kentucky	1	1	43. Texas	0	0
18. Louisiana	1	0	44. Utah	1	1
19. Maine	1	1	45. Vermont	1	1
20. Maryland	3	1	46. Virginia	1	1
21. Massachusetts	1	1	47. Washington	1	0
22. Michigan	0	0	48. W. Virginia	0	1
23. Minnesota	1	1	49. Wisconsin	1	0
24. Mississippi	0	1	50. Wyoming	0	0
25. Missouri	1	3	51. Washington DC	1	1
26. Montana	0	1	52. Puerto Rico	0	0

**Codes:** 4 - Used frequently by many localities  
 3 - Ued frequently by a few localities  
 2 - Used occasionally by many localities  
 1 - Used occasionally by a few localities  
 0 - Virtually no localities ever used them

## APPENDIX 2

### Status of State Task Forces

Among the questions which were included on the survey was one inquiring into the status of State Drunk Driving Task Forces. In the halcyon days of the early 1980's nearly every state created a Task Force to bring together concerned parties to craft a plan of action. Over the years, the number of active Task Forces has steadily diminished. According to the survey respondents, 25 states currently have an active Task Force.

# STATUS OF STATE TASK FORCES

	Task Force		Status	
	No	Yes	Active	Inactive
Alabama		X		X
Alaska		X		X
Arizona		X		X
Arkansas		X	X	
California		X		X
Colorado		X	X	
Connecticut		X		X
Delaware		X	X	
Florida		X	X	
Georgia		X	X	
Hawaii		X		X
Idaho		X		X
Illinois		X		X
Indiana		X	X	
Iowa		X		X
Kansas		X		X
Kentucky		X	X	
Louisiana		X	X	
Maine		X		X
Maryland		X	X	
Massachusetts		X		X
Michigan		X	X	
Minnesota		X	X	
Mississippi		X		X
Missouri		X	X	
Montana		X	X	
Nebraska		X		X
Nevada		X	X	
New Hampshire		X	X	
New Jersey		X	X	
New Mexico		X		X
New York		X	X	
N. Carolina		X	X	
N. Dakota		X	X	
Ohio		X	X	
Oklahoma		X		X
Oregon		X	X	
Pennsylvania		X		X
Rhode Island		X		X
S. Carolina		X		X
S. Dakota		X		X
Tennessee		X		X
Texas		X		X
Utah		X	X	
Vermont		N/A		N/A
Virginia		X		X
Washington		X	X	
W. Virginia		X		X
Wisconsin		X	X	
Wyoming		N/A		N/A
District of Columbia		X		
Puerto Rico		X	X	

### APPENDIX 3

#### State Task Force Contacts

In a separate follow-up survey to the Governor's Highway Safety Representatives in August 1989, we asked again whether their state had a Task Force and, if so, who could be contacted for further information about it. This appendix lists the names and addresses of those reported contacts.



## STATE TASK FORCE CONTACTS

### ALABAMA

John Perkins  
Alcohol Coordinator  
AL Dept. of Economic and  
Community Affairs  
3465 Norman Brige Road  
Montgomery, AL 36103  
(205) 242-5897

### ALASKA

T. Michael Lewis  
Governor's Highway Safety  
Representative  
P. O. Box N  
Juneau, Alaska 99811

### ARIZONA

No information available

### ARKANSAS

No information available

### CALIFORNIA

Marilyn Sabin  
Alcohol Program Manager  
Office of Traffic Safety  
7000 Franklin Blvd., Suite 330  
Sacramento, CA 95823

### COLORADO

No information available

### CONNECTICUT

No information available

### DELAWARE

Theresa del Tufo  
Management Analyst III  
Office of Highway Safety  
802 Silver Lake Boulevard  
Dover, DE 19901

### FLORIDA

No information available

### GEORGIA

Patricia A. Redmond  
Dep. Dir. for Substance Abuse  
Services,  
Div. of Mental Health, Mental  
Retardation and Substance Abuse  
Georgia Dept. of Human Resources  
878 Peachtree Street, N.E.  
Atlanta, GA 30309-3999

### HAWAII

No information available

### IDAHO

No information available

### ILLINOIS

S. Rowan Woolfork  
Director, Div. of Traffic Safety  
Illinois Dept. of Transportation  
2300 S. Dirksen Parkway  
Springfield, IL 62764

### INDIANA

No information available

### IOWA

No information available

### KANSAS

No information available

### KENTUCKY

Mark Bubenzer  
Executive Director  
Kentucky Crime Commission  
417 High Street, 3rd Floor  
Frankfort, KY 40601

### LOUISIANA

No information available

### MAINE

No information available

MARYLAND

Peter C. Cobb  
Executive Assistant for  
Public Safety  
Maryland Dept. of Transportation  
301 W. Preston Street  
Baltimore, MD 21201

MASSACHUSETTS

No information available

MICHIGAN

No information available

MINNESOTA

Steve Simon  
Professor  
Minnesota Criminal Justice System  
DWI Task Force  
190 Law Center  
229 19th Avenue South  
Minneapolis, MN 55455

MISSISSIPPI

No information available

MISSOURI

Vicky Williams  
Program Specialist  
Missouri Div. of Highway Safety  
P. O. Box 1406  
Jefferson City, Missouri 65102

MONTANA

No information available

NEBRASKA

Fred E. Zwonechek  
Administrator  
Dept. of Motor Vehicles  
Highway Safety Division  
301 Centennial Mall South  
P. O. Box 94612  
Lincoln, NE 68509

NEVADA

No information available

NEW HAMPSHIRE

John B. McDuffee  
Coordinator  
New Hampshire Highway  
Safety Agency  
117 Manchester Street  
Pine Inn Plaza  
Concord, NH 03301

NEW JERSEY

William T. Taylor  
Governor's Representative  
for Highway Safety  
Division of Highway Traffic Safety  
CN -048  
Trenton, NJ 08625

NEW MEXICO

Paul Nathenson  
Director, Institute of  
Public Law  
1117 Stanford N.E.  
Albuquerque, New Mexico 87131

NEW YORK

Patricia Adduci  
Commissioner of Motor Vehicles  
State of New York  
Dept. of Motor Vehicles  
Empire State Plaza  
Albany, NY 12228

NORTH CAROLINA

No information available

NORTH DAKOTA

Jim Vukelic  
Deputy Attorney General  
Chairman, Governor's Committee  
on DUI & Traffic Safety  
State Capitol  
Office of Attorney General  
Bismarck, ND 58505  
(701) 224-2210

OHIO

No information available

OKLAHOMA

No information available

OREGON

Gil Bellamy  
Administrator, Oregon Traffic  
Safety Commission  
400 State Library Building  
Salem, Oregon 97310

PENNSYLVANIA

Louis R. Rader  
Manager, Pennsylvania Alcohol  
Highway Safety Program  
Pennsylvania Dept.  
Transportation  
Center for Highway Safety  
T & S Building, Room 212  
Harrisburg, PA 17120

RHODE ISLAND

Joseph DeAngelis  
Speaker, House of Representatives  
State House Office Bldg., Room 323  
Providence, RI 02903

SOUTH CAROLINA

No information available

SOUTH DAKOTA

No information available

TENNESSEE

No information available

TEXAS

No information available

UTAH

No information available

VERMONT

No information available

VIRGINIA

Vincent M. Burgess  
Transportation Safety  
Administrator  
Dept. of Motor Vehicles  
2300 West Broad Street  
Richmond, VA 23220

WASHINGTON

No information available

of WEST VIRGINIA

Lt. Herb Richardson  
Executive Director  
West Virginia Drunk Driving  
Prevention Commission  
725 Jefferson Road  
South Charleston, W. VA 25309  
(304) 746-2203

WISCONSIN

No information available

WYOMING

No information available

DISTRICT OF COLUMBIA

No information available

PUERTO RICO

No information available

AMERICAN SAMOA

No information available

## APPENDIX 4

How seriously is drunk driving considered?

One question we wished to explore on our survey was the seriousness which various groups accord to the problem of drunk driving. Periodically in the survey we asked our respondents how seriously they believed various groups treated the issue of drunk driving. The respondents were asked to rate the seriousness of each group's commitment on a scale of 1-5, with 1 indicating that the group did not treat the issue seriously and 5 indicating that they treated drunk driving very seriously. The mean scores for each of the groups is given below. A breakdown of the groups by state is listed on the following page.

1.....2.....3.....4.....5  
not serious very serious

Law enforcement officials: mean = 4.1

Top state officials: mean = 3.8

General public: mean = 3.5

State legislature: mean = 3.4

Prosecutors and judges: mean = 3.4

Youth:                      mean = 3.0

Retail alcohol vendors: mean = 2.2

In our survey we asked respondents how seriously they believed the following groups treated DWI. They were asked to rate the commitment of each of the groups on a scale of 1-5, 1 indicating that the group did not treat the issue seriously, 5 indicating that they treated drunk driving very seriously. The mean score for each group is given below by state.

	State Legislature	Law Enforcement	Prosecutors and Judges	Alcohol Retailers	General Public	Youth	Top State Official
AL	3.2	4.3	3.8	2.8	3.4	2.4	3.6
AK	3.3	4.5	4.3	1.8	3.3	3.8	3.0
AR	2.2	4.0	2.8	1.3	2.0	2.3	4.5
CA	4.0	4.3	3.5	1.9	3.6	3.5	3.3
CO	3.8	4.3	4.0	2.0	3.8	3.3	3.7
CT	3.8	4.5	4.3	3.0	3.8	2.5	3.4
DE	4.2	4.6	4.2	2.0	4.2	2.3	3.8
FL	3.7	3.7	3.8	2.7	3.7	3.6	4.8
GA	2.7	4.8	1.0	3.0	3.4	3.5	3.5
HI	4.0	4.8	4.1	1.7	3.6	2.3	3.7
ID	3.8	5.0	3.5	2.3	3.7	2.3	4.0
IL	3.5	4.3	3.5	2.2	3.8	3.0	4.0
IN	3.6	2.8	3.3	3.2	3.6	3.0	4.8
IA	3.7	4.3	3.3	3.0	3.5	3.6	4.3
KS	3.8	3.3	2.7	2.7	4.3	2.8	3.7
KY	3.0	4.3	3.3	2.6	3.6	3.3	4.4
LA	3.0	4.2	2.8	1.8	3.6	2.4	3.0
ME	4.7	3.8	3.7	2.5	3.8	2.4	4.4
MD	4.0	N	4.0	1.7	2.7	3.0	4.7
MA	3.4	3.2	3.3	2.3	3.2	3.0	4.3
MI	2.8	3.6	2.8	1.2	2.8	2.8	3.2
MN	4.2	4.4	3.8	2.0	3.8	2.6	4.2
MS	3.3	4.7	2.3	2.0	2.7	3.2	3.7

	State Legislature	Law Enforcement	Prosecutors and Judges	Alcohol Retailers	General Public	Youth	Top State Officials
MD	2.4	4.4	2.4	2.8	2.8	3.2	3.4
MT	3.0	4.8	2.8	1.7	4.0	4.3	3.5
NE	4.0	4.3	3.0	2.3	3.3	3.0	3.8
NH	3.7	N	3.8	3.3	3.4	4.0	4.0
NJ	4.3	4.3	3.7	2.0	4.0	3.0	3.6
NM	3.0	4.0	3.3	3.0	3.3	3.0	4.7
NY	3.6	4.6	3.8	2.6	3.7	2.5	3.3
NC	3.2	4.6	3.3	2.8	4.0	3.1	4.3
ND	2.7	3.3	3.3	3.0	3.3	2.8	4.4
OH	2.9	3.8	3.8	2.0	2.6	2.4	4.0
OR	3.4	4.3	3.3	2.5	3.7	2.4	3.8
PA	3.4	4.0	3.0	2.0	3.0	3.0	3.5
SC	3.4	3.5	2.8	2.0	2.9	3.5	4.3
TN	3.3	4.0	N	N	3.0	4.3	3.0
TX	2.3	4.0	2.7	1.0	1.3	3.0	3.0
VT	3.3	4.3	3.7	3.0	3.0	3.0	4.3
VA	3.2	4.0	3.2	2.5	3.7	4.3	3.8
WA	3.5	4.8	4.0	3.3	4.6	3.5	3.5
WV	3.3	3.8	2.7	2.0	3.0	3.5	3.5
WI	3.2	3.5	4.0	2.2	3.8	4.3	4.3
WY	3.4	4.4	3.8	1.7	2.8	3.5	3.5
PR	2.4	2.2	2.6	1.0	1.4	3.8	3.8

## APPENDIX 5

### Library of Obstacles

In each section of the survey, we asked respondents what obstacles they had encountered. These obstacles were then summarized and organized according to the count or number of citations. Along with the count, we have included the percentage of respondents who identified each obstacle:

Eleven questions about obstacles were included in the survey:

- Question 4: What obstacles have been encountered in efforts to pass drunk driving legislation in your state?
- Question 7: What obstacles exist to more effective enforcement of drinking and driving laws in your state?
- Question 17: What obstacles exist to more effective prosecution and adjudication of DWI offenders?
- Question 22: What obstacles have hindered the implementation of licensing measures designed to combat drunk driving?
- Question 29: What obstacles have hindered the dissemination of public information on alcohol use and highway safety?
- Question 35: What obstacles have hindered the development of prevention programs?
- Question 40: What obstacles have been encountered in efforts to reduce youth drinking and driving in your state?
- Question 48: What obstacles have been encountered in getting citizens, businesses, and other organizations to participate in efforts to reduce drunk driving in your state?
- Question 53: What problems have such citizen activist groups encountered?
- Question 55: What obstacles have been encountered in establishing the state's leadership and coordinative role?
- Question 65: What do you see as the major obstacles to be overcome?

QUESTION 4: What obstacles have been encountered in efforts to pass drunk driving legislation in your state?

<u>Count</u>	<u>Percentage of Respondents</u>	<u>Obstacles</u>
54	24.8	Attitude of Legislators, including empathy with drunk drivers, lack of interest in the issue, and failure to consider DWI a serious problem
50	22.9	Influence of alcohol beverage industry or retailers
30	13.3	Influence of lawyers, including lawyers in the legislature
29	13.3	Budget constraints; insufficient funding
28	12.8	Public apathy; lack of public support, pressure, or lobbying
24	11.0	Concern regarding excessive penalties or opposition to increased penalties
20	9.2	Little opposition, no serious obstacles, adequate existing laws
19	8.7	Concern regarding the constitutionality of DWI laws and violating civic rights
17	7.8	Apathy or tolerance of the problem of DWI; empathy with drunk drivers
15	6.9	Problems with inadequate manpower for enforcement and/or a backlogged court and correction system
12	5.5	Lack of coordination, cooperation, or consensus
7	3.2	Lack of support (or opposition) from judges
6	2.8	Lack of support (or opposition) from the Governor



Question 7: What obstacles exist to more effective enforcement of drinking and driving laws in your state?

<u>Count</u>	<u>Percentage of Respondents</u>	<u>Obstacles</u>
116	53.5	Lack of funds, manpower, and/or equipment.
48	22.1	Problems with judges: lack of training, fail to take DWI seriously, fail to impose severe sanctions, inconsistent sentencing
29	13.4	Overburdened court system incapable of adjudicating cases expeditiously
27	12.4	Lack of training for law enforcement officers
26	12.0	Lack of public support or involvement
20	9.2	Lengthy arrest and booking procedures and/or time-consuming court hearings
20	9.2	Problems with prosecutors: plea bargain; fail to take DWI seriously; lack of training; lack of consistent or effective prosecution
20	9.2	Inadequate jail facilities
17	7.8	Lack of enforcement effort: apathy toward DWI; failure to enforce laws
15	6.9	Focus on drugs and other criminal offenses diverts resources away from DWI enforcement; low priority of DWI
2	.9	Inadequate number of prosecutors to handle case load
2	.9	No serious problems

Question 17: What obstacles exist to more effective prosecution and adjudication of DWI offenders?

<u>Count</u>	<u>Percentage of Respondents</u>	<u>Obstacle</u>
80	41.9	Overburdened court system (both prosecutors and judges;) court delays.
39	20.4	Lack of uniform sentencing by judges; unwillingness of judges to adhere to prescribed sanctions; judicial discretion; leniency toward drunk drivers.
37	19.4	Lack of training or education for judges and prosecutors.
31	16.2	Inadequate jail space or correctional facilities.
		Plea bargaining; charge bargaining; reduced charges.
30	15.7	Apathy in the court system; lenient judges and prosecutors.
22	11.5	Lack of funding
8	4.2	Problems in obtaining acceptable evidence; better judicial acceptance of Horizontal Gaze Nystagmus and DRE tests; police failing to adhere to legal testing procedures.
6	3.1	Lack of adequate tracking system and/or recordkeeping on repeat offenders.
3	1.6	Lack of coordination within the criminal justice system (including between law enforcement and courts.)
3	1.6	No serious problems.

Question 22: What obstacles have hindered the implementation of licensing measures designed to combat drunk driving?

<u>Count</u>	<u>Percentage of Respondents</u>	<u>Obstacles</u>
45	27.6	Lack of legislative support; inadequate legislation; lack of legislative mandate
24	14.7.	Inadequate funding
19	11.7	Poor use of judicial discretion; excessive use of hardship licenses; lenient sanctions
16	9.8	Poor court reporting of convictions to DMV (e.g. failure to report; delays in reporting; inaccurate reporting)
14	8.6	None
13	8.0	Insufficient manpower
11	6.7	Offenders who continue to drive without a license; inadequate sanctions to deter driving on a revoked license; no follow-up
10	6.1	Issuance of provisional or restricted licenses
7	4.3	Issuance of provisional or restricted licenses
5	3.1	Lack of national registry; inadequate exchange of information between states
3	1.8	Lack of speedy trials/hearings

Question 29: What obstacles have hindered the dissemination of public information on alcohol use and highway safety?

<u>Count</u>	<u>Percentage of Respondents</u>	<u>Obstacles</u>
87	53.0	Lack of funds, manpower, or other resources
24	14.6	Lack of interest; inability to maintain a high level of interest; not perceived as a serious problem
18	11.0	No problems
14	8.5	Competition from other social problems (e.g. drugs, AIDS)
12	7.3	Lack of coordination
11	6.7	Inability to obtain (prime time) airtime
10	6.1	Influence of the alcohol beverage industry

Question 35: What obstacles have hindered the development of prevention programs?

<u>Count</u>	<u>Percentage of Respondents</u>	<u>Obstacles</u>
88	54.0	Lack of money and/or manpower
25	15.3	Lack of public interest or failure to recognize problem; social attitudes toward drinking behavior
22	16.0	Unreceptive attitude or opposition from the alcohol industry and alcohol retailers
20	12.3	Lack of coordination
17	10.4	Lack of support from key public officials and/or legislature
9	5.5	Funding and publicity given to drug problem or other issues; low priority of DWI
5	3.1	Lack of qualified trainers; lack of adequate training
4	2.5	Alcohol advertising
4	2.5	None

Question 40: What obstacles have been encountered in efforts to reduce youth drinking and driving in your state?

<u>Count</u>	<u>Percentage of Respondents</u>	<u>Obstacles</u>
31	19.5	Lack of resources
30	18.9	Lack of severe sanctions for youth; lenient judges and prosecutors; treating youth different than adults
23	14.5	General community attitudes toward underage drinking; apathy to youth DUI
22	13.8	Attitude of youth toward drinking; peer pressure to drink; tendency to ignore risks
21	13.2	Lack of parental concern; parental denial
21	13.2	Problems with school education: difficulty integrating alcohol and drug information into school curriculum; denial of problem by school administrators; lack of school education
20	12.6	Ease with which young people can obtain alcoholic beverages
13	8.2	Influence of alcohol beverage industry, including inappropriate marketing
11	6.9	Inadequate law enforcement
6	3.8	Lack of legislative support; inadequate laws
5	3.1	None
2	1.3	Lack of intervention and treatment for youth

Question 48: What obstacles have been encountered in getting citizens, businesses and other organizations to participate in efforts to reduce drunk driving in your state?

<u>Count</u>	<u>Percentage of Respondents</u>	<u>Obstacles</u>
41	32.5	General societal tolerance of drinking and driving; failure to recognize the problem of DWI; lack of understanding
28	22.2	Little incentive to become involved; difficult to motivate people to get involved
21	16.7	Lack of funding, manpower, or resources
17	13.5	Lack of coordination; need for coordinating body such as a Task Force
8	6.3	No major problems
7	5.6	Competing issues vie for their attention
5	4.0	Difficult to sustain an interest; DWI not a high priority today [key concept = waning participation]

Question 53: What problems have such citizen activist groups encountered?

<u>Count</u>	<u>Percentage of Respondents</u>	<u>Obstacles</u>
43	26.7	Lack of funds
30	18.6	Declining public interest in the problem; lack of public interest
23	14.3	Lack of professional image; negative image; extreme positions turn off public; seen as self-righteous crusaders; too emotional; seek excessively severe sanctions
19	11.8	Burn out; sustaining interest of members; complacency; frustration
18	11.2	Resistance from legislators, and/or judges, prosecutors, police
15	9.3	Lack of coordination and organization (both among members and chapters and with other groups)
14	8.7	Insufficient volunteers; small membership; recruitment difficult
10	6.2	Competition for media attention from other causes; difficulty generating media attention
5	3.1	Internal conflicts
2	1.2	No major problems



Question 55: What obstacles have been encountered in establishing the state's leadership and coordinative roles?

<u>Count</u>	<u>Percentage of Respondents</u>	<u>Obstacles</u>
38	33.6	Turf battles; lack of coordination; overlapping jurisdictions
27	23.9	Lack of resources, manpower, and/or funding
12	10.6	No single agency taken the lead; lack of leadership
11	9.7	No major problems
8	7.1	Lack of interest; failure to recognize the problem; low priority of DWI
3	2.7	Failure to devise a single unified strategy

Question 65: What do you see as the major obstacles to be overcome?

<u>Count</u>	<u>Percentage of Respondents</u>	<u>Obstacles</u>
98	48.0	Public apathy; failure to recognize the problem; social attitudes toward drinking and driving
78	38.2	Lack of funding and/or manpower
39	19.1	Lack of support from lawmakers and/or administration
24	11.8	Attitude and practices of prosecutors and judges
23	11.3	Influence of alcohol advertising and alcohol beverage industry
16	7.8	Inadequate court system resources and jail space
13	6.4	Lack of coordination
5	2.5	Lack of swift, certain, and uniform sanctions; plea bargaining
2	1.0	Inadequate record keeping and tracking of offenders

## APPENDIX 6

### Completed Survey Instrument

The mean scores and most frequent responses have been listed on this sample survey instrument.



# NATIONAL COMMISSION AGAINST DRUNK DRIVING

## Survey of State Activities: 1983 - 1988

### LEGISLATIVE

1. Who or what organizations have exhibited leadership on the issue of drunk driving in your state?

(Please rank up to 3 in order of importance, 1 being most important)

3 Governor  
2 Governor's Highway Safety Representative  
state legislator  
state Attorney General  
1 citizen organization

television media

print media

business coalition

other (please specify) \_\_\_\_\_

no one

2. What are the most significant factors in getting drunk driving legislation passed in your state?

(Please rank up to 3 in order of importance, 1 being most important)

efforts of the Governor  
support of the Governor's Highway Safety Representative  
media attention  
well publicized drunk driving crash

3 groundswell of public support

2 leadership by a key state legislator

1 lobbying by concerned citizens

other (please specify) \_\_\_\_\_

3. In general how seriously do you believe the state legislature treats the issue of DWI? (please circle a number on the scale)

mean = 3.4 not seriously 1 2 3 4 5 very seriously

4. What obstacles have been encountered in efforts to pass drunk driving legislation in your state?

1) attitude of legislators including apathy toward problem and empathy with drunk drivers  
2) influence of the alcohol beverage industry and alcohol retailers  
3) influence of lawyers, including lawyers in the legislature

5. What else is needed to have an effective package of drunk driving legislation in your state?

1) enactment of administrative per se license sanctions  
2) public support or public pressure; a change in public attitude; more grass roots effort  
3) greater publicity and media attention; increased public information and education

### ENFORCEMENT

To what extent have the following recommendations of the Presidential Commission on Drunk Driving been implemented?

Adoption of a statewide uniform ticket system (PCDD #14)	mean = 3.8	not at all 1 2 3 4 5 fully
Use of sobriety checkpoints (PCDD #17)	mean = 2.8	not at all 1 2 3 4 5 fully
Adoption of expeditious arrest, booking and charging procedures (PCDD #19)	mean = 3.3	not at all 1 2 3 4 5 fully
Encouragement of citizen reporting of DWI (PCDD #20)	mean = 2.9	not at all 1 2 3 4 5 fully

6. In general how seriously do you believe law enforcement officials treat DWI?

mean = 4.1 not seriously 1 2 3 4 5 very seriously

7. What obstacles exist to more effective enforcement of drinking and driving laws in your state?

1) lack of funds, manpower, and/or equipment  
2) problems with judges: apathy, lack of training, inconsistent sentencing, leniency  
3) overburdened court system incapable of adjudicating cases expeditiously

8. List the 3 enforcement measures that you feel would offer the greatest deterrence to drunk driving in your state.

1) increased use of sobriety checkpoints  
2) increased enforcement effort including special DWI patrols, saturation patrols  
3) administrative license sanctions upon illegal per se violation or test refusal

9. Which law enforcement agencies have been most active in making DWI arrests? (Rank up to 3 in order of importance)

1 state police or highway patrol  
2 municipal police  
sheriff

3 county law enforcement agency  
other (specify) \_\_\_\_\_

10. Briefly describe the trend in DWI arrests in your state since 1980, comparing the current level to the levels in 1980 and 83.  
41% responded that there was an increase in the arrest rate  
21% responded that there was an initial decrease followed by a subsequent decrease  
12% responded that there was a decrease in the arrest rate
11. What factors do you believe have affected changes in the arrest levels since 1980?  
increased publicity; greater public awareness and support for enforcement officers  
changes in the law; new legislation
12. Which one of the following best describes the use of sobriety checkpoints in 1983?  
4% used frequently by many localities      34% used occasionally by a few localities  
6% used frequently by a few localities      39% virtually no localities ever used them  
4% used occasionally by many localities
13. Which one of the following best describes the use of sobriety checkpoints today?  
10% used frequently by many localities      31% used occasionally by a few localities  
10% used frequently by a few localities      22% virtually no localities ever use them  
14% used occasionally by many localities
14. To what extent do you believe that checkpoints are an effective deterrent to drunk driving?  
 mean = 3.8    not at all    1    2    3    4    5    very
15. What else is required for effective law enforcement in your state?  
 1) additional manpower  
 2) training for law enforcement officers  
 3) additional funding

## PROSECUTION/ADJUDICATION

**To what extent have the following recommendations of the Presidential Commission on Drunk Driving been implemented:**

Prosecutors and judges receive annual in-service training (PCDD # 13)	mean = 2.8	not at all	1	2	3	4	5	fully
Prosecutors provide police and courts with legal updates on changes in DUI laws (PCDD #13)	mean = 2.9	not at all	1	2	3	4	5	fully
State Chief Justice convenes annual meeting to discuss DUI issues (PCDD #13)	mean = 1.6	not at all	1	2	3	4	5	fully
Prohibition on plea-bargaining in DUI cases (PCDD #21)	mean = 2.4	not at all	1	2	3	4	5	fully
Prosecutors initiate appellate action when judges disregard mandatory sanctions (PCDD #25)	mean = 2.1	not at all	1	2	3	4	5	fully
DUI trials concluded within 60 days, sentencing within 30 days, appellate process within 90 days (PCDD #28)	mean = 2.3	not at all	1	2	3	4	5	fully
Minor traffic infractions adjudicated by simplified, informal procedures (PCDD #28)	mean = 3.1	not at all	1	2	3	4	5	fully
Pre-conviction diversion prohibited (PCDD #29)	mean = 2.8	not at all	1	2	3	4	5	fully
Limited issuance of hardship licenses with eligibility restricted to first-time offenders (PCDD #33)	mean = 2.9	not at all	1	2	3	4	5	fully
Alcohol assessments available to all courts and required for repeat offenders (PCDD #36)	mean = 3.6	not at all	1	2	3	4	5	fully
Offender required to appear in person to request resumption of driving privilege (PCDD # 37)	mean = 3.0	not at all	1	2	3	4	5	fully
Offender required to take test on alcohol and highway safety before return of driving privilege (PCDD #37)	mean = 2.3	not at all	1	2	3	4	5	fully

16. In general how seriously do you believe prosecutors and judges treat DWI offenses?  
 mean = 3.4    not seriously    1    2    3    4    5    very seriously
17. What obstacles exist to more effective prosecution and adjudication of DWI offenders?  
 1) overburdened court system (both prosecutors and judges); court delays  
 2) lack of uniform sentencing by judges; unwillingness of judges to adhere to proscribed sentences; judicial discretion; judicial leniency  
 3) lack of training for judges and prosecutors

18. For each of the following offenses, select what you believe would be the most effective package of sanctions. Fill in the optimal number of days, hours or dollars. Cross out any sanction that you believe is inappropriate for the particular offense.

**1st offense DUI:**

jail \_\_\_\_\_ days  
 license suspension \_\_\_\_\_ days  
 fine \_\_\_\_\_ dollars  
 treatment \_\_\_\_\_ days  
 community service \_\_\_\_\_ hours  
 education classes \_\_\_\_\_ hours

interlock device \_\_\_\_\_ days  
 license plate confiscation \_\_\_\_\_ days  
 vehicle confiscation \_\_\_\_\_ days  
 other \_\_\_\_\_  
 other \_\_\_\_\_

**2nd offense DUI:**

jail \_\_\_\_\_ days  
 license suspension \_\_\_\_\_ days  
 fine \_\_\_\_\_ dollars  
 treatment \_\_\_\_\_ days  
 community service \_\_\_\_\_ hours  
 education classes \_\_\_\_\_ days

interlock device \_\_\_\_\_ days  
 license plate confiscation \_\_\_\_\_ days  
 vehicle confiscation \_\_\_\_\_ days  
 other \_\_\_\_\_  
 other \_\_\_\_\_

**3rd offense DUI:**

jail \_\_\_\_\_ days  
 license suspension \_\_\_\_\_ days  
 fine \_\_\_\_\_ dollars  
 treatment \_\_\_\_\_ days  
 community service \_\_\_\_\_ hours  
 education classes \_\_\_\_\_ hours

interlock device \_\_\_\_\_ days  
 license plate confiscation \_\_\_\_\_ days  
 vehicle confiscation \_\_\_\_\_ days  
 other \_\_\_\_\_  
 other \_\_\_\_\_

19. For each of the following sanctions, please place a mark under the appropriate column to indicate the current level of use.

	high	moderate	low	no use
jail	15%	28%	53%	4%
license suspension	63%	25%	11%	1%
finer	58%	34%	8%	-
treatment	24%	44%	30%	1%
community service	13%	32%	48%	8%
education classes	42%	40%	16%	2%
interlock devices	1%	2%	25%	72%
license plate confiscation	1%	4%	22%	73%
vehicle confiscation	-	1%	18%	81%
home monitoring "lock-up"	1%	1%	39%	60%

20. Currently, what kinds of efforts are made to follow-up on persons receiving license suspensions to insure that they comply with the suspension? (e.g. increased fines, jail, surveillance, license plate confiscation, etc.)

40% - none; not much; little

36% - additional sanctions if rearrested (e.g. increased fines, license sanctions, jail)

4% - probation

21. What else is required for effective prosecution and adjudication in your state?

- 1) training for prosecutors and/or judges
- 2) more prosecutors; lower case load
- 3) restricted prosecutorial and/or judicial discretion; restricted plea bargaining; less variation in court sentencing; mandatory sentences

## LICENSING

### To what extent have the following recommendations of the Presidential Commission on Drunk Driving been implemented?

Convictions on Indian reservations and military and federal lands reported to state licensing authority

(PCDD # 14)

mean = 2.7

not at all 1 2 3 4 5 fully

Licensing authorities track DUI offenders from arrest through disposition

(PCDD # 14)

mean = 2.9

not at all 1 2 3 4 5 fully

22. What obstacles have hindered the implementation of licensing measures designed to combat drunk driving?

- 1) lack of legislative support; lack of legislative mandate; inadequate legislation
- 2) inadequate funding
- 3) poor use of judicial discretion; excessive use of hardship licenses; lenient sanctions

23. To what extent are fake ID's and fraudulent licenses a problem in your state?

mean = 3.2

no problem

1

2

3

4

5

great problem

24. What actions have been undertaken to combat the use of fake ID's in your state?
- 1) issuance of "tamper proof" licenses
  - 2) penalties for using fake ID's, for altering licenses, for fraudulent license applicatio
  - 3) distinctively coded or marked licenses for youthful drivers
25. What is the current level and what has been the trend since 1983 in the use of probationary or restricted licenses for DWI offenders?
- |                                    |                                   |
|------------------------------------|-----------------------------------|
| 20% - no use of restricte licenses | 11% - increased since 1983        |
| 15% - routine or high use          | 6% - remained the same since 1983 |
| 9% - used only for 1st offenders   | 6% - decreased since 1983         |
26. To what extent are the license suspensions issued for DWI violations "hard" license suspensions?
- mean = 3.4    virtually none    1    2    3    4    5    virtually all
27. Are court convictions for drinking and driving offenses consistently transmitted to the department of motor vehicles?
- 90% yes    10% no
28. What else is required for effective licensing in your state?
- 1) better exchange of information between courts and DMV; computerization; improved record
  - 2) administrative per se license sanctions system
  - 3) increased funds and/or manpower for licensing authorities

## PUBLIC INFORMATION

**To what extent have the following recommendations of the Presidential Commission on Drunk Driving been implemented?**

Promotion of alcohol use and highway safety messages by the media and influential community figures (PCDD # 3)	mean = 3.6	not at all	1	2	3	4	5	fully
Information on the hazards of drunk driving provided by motor vehicle manufacturers and dealers, insurance companies and gas stations (PCDD =6)	mean = 2.3	not at all	1	2	3	4	5	fully

29. What obstacles have hindered the dissemination of public information on alcohol use and highway safety?
- 1) lack of funds, manpower, or other resources
  - 2) lack of interest; DWI not perceived as a serious problem
  - 3) no problems
30. How extensive are public information efforts in your state today?
- mean = 3.6    virtually no public information    1    2    3    4    5    widespread information
31. What is the current level of publicity given to the issue of drunk driving by the following media in your state?
- |                     | high | medium | low | no publicity |
|---------------------|------|--------|-----|--------------|
| radio               | 21%  | 47%    | 32% | -            |
| TV programming      | 26%  | 50%    | 23% | 1%           |
| news broadcasts     | 28%  | 44%    | 26% | 2%           |
| PSA's               | 30%  | 44%    | 24% | 2%           |
| newspapers          | 21%  | 49%    | 28% | 2%           |
| billboards          | 10%  | 26%    | 48% | 16%          |
| films               | 4%   | 25%    | 54% | 16%          |
| alcohol advertisers | 6%   | 30%    | 52% | 12%          |
32. Who in your state has been most active in promoting public information on the issue of drunk driving?
- 1) MADD
  - 2) Governor's Highway Safety Office
33. What public information approaches would be most effective in your state?
- 1) television PSA's
  - 2) radio
  - 3) greater education aimed at youth; school education
34. What else is required for an effective public information campaign?
- 1) additional funding or resources
  - 2) cooperation and commitment from media
  - 3) school programs or messages aimed at young people

## PREVENTION ACTIVITIES

**To what extent have the following recommendations of the Presidential Commission on Drunk Driving been implemented?**

Server training programs (PCDD #7)	mean = 2.9	not at all	1	2	3	4	5	fully
Signs on the dangers of drunk driving displayed at the point of retail alcohol sale (PCDD #7)	mean = 2.2	not at all	1	2	3	4	5	fully
Sponsorship of educational programs by the alcohol industry to warn the public of the hazards of drinking and driving (PCDD #7)	mean = 2.0	not at all	1	2	3	4	5	fully
Greater attention devoted by states to roadway markings (PCDD #16)	mean = 2.4	not at all	1	2	3	4	5	fully

35. What obstacles have hindered the development of prevention programs?

- 1) lack of money and/or manpower
- 2) lack of public interest; social attitudes toward drinking behavior
- 3) unreceptive attitude or opposition from the alcohol industry and alcohol retailers

36. How seriously do you believe retail alcohol vendors treat the problem of drunk driving?

mean = 2.2    not seriously    1    2    3    4    5    very seriously

37. In your opinion, what is the current level of public support for the following measures:

	high	medium	low	no support
designated driver	45%	46%	9%	1%
safe rides program	26%	46%	27%	1%
mandatory server training	16%	34%	43%	8%
dram shop liability for licensees	16%	35%	37%	12%
dram shop liability for social hosts	6%	19%	54%	21%
higher taxes on alcoholic beverages	15%	39%	38%	8%
regulating content of alcohol ads	7%	36%	45%	12%
ban on alcohol advertisements	6%	22%	51%	21%
ban on happy hours	13%	26%	46%	15%

38. What agency or organization is the major promoter of server training programs for liquor licensees?

- 1) ABC Commission
- 2) hotel/restaurant association
- 3) Governor's Highway Safety Office

39. What else is required for effective prevention programs in your state?

- 1) additional and/or manpower
- 2) preventive education for youth; K-12 education
- 3) server training

## YOUTH

**To what extent have the following recommendations of the Presidential Commission on Drunk Driving been implemented?**

School curricula on alcohol and drugs that explicitly addresses the issue of impaired driving (PCDD #4)	mean = 3.3	not at all	1	2	3	4	5	fully
Alcohol and drug programs sponsored by athletic clubs and youth organizations (PCDD #4)	mean = 3.0	not at all	1	2	3	4	5	fully
Juvenile offenders required to participate in programs which closely follow the requirements for adult offenders (PCDD #38)	mean = 2.9	not at all	1	2	3	4	5	fully

40. What obstacles have been encountered in efforts to reduce youth drinking and driving in your state?

- 1) lack of funding and resources
- 2) lack of severe sanctions for youth; lenient judges and prosecutors; not treated as adult
- 3) general community attitudes toward underage drinking; apathy toward youth DWI

41. How do you believe underage youth in your state regard drinking after driving?

mean = 3.0    not a problem    1    2    3    4    5    serious problem

42. To what extent do you consider youthful drinking and driving to be a problem in your state?

mean = 4.3    not a problem    1    2    3    4    5    serious problem



43. How effective is the minimum drinking age of 21 in deterring underage drunk driving?  
 mean = 3.1      ineffective    1    2    3    4    5    very effective
44. How serious have efforts been to enforce the age 21 minimum drinking age?  
 mean = 3.5      not serious    1    2    3    4    5    serious
45. Which of the following best describes the attitude of parents in your state toward classroom education programs that teach students about alcohol, other drugs, and driving?  
14% active promotion and support      4% little support and occasional opposition  
55% general support and no visible opposition      - organized opposition  
21% generally no reaction      - other (specify) \_\_\_\_\_
46. What prevention programs have been visible in the state?  
 1) SADD projects  
 2) Project Graduation and other prom night activities  
 3) MADD programs (including Red Ribbon campaign)
47. What else is required to curb youth drinking and driving in your state?  
 1) increased education programs  
 2) greater parental support, involvement, education or liability  
 3) strict enforcement of anti-possession and age 21 laws; increased perception of risk for alcohol-related offenses

## CITIZEN INVOLVEMENT

**To what extent have the following recommendations of the Presidential Commission on Drunk Driving been implemented?**

Dissemination of information on drunk driving by employers, trade associations, labor organizations, civic and fraternal groups (PCDD #5)	mean = 2.6	not at all	1	2	3	4	5	fully
Encouragement by government and non-governmental groups of citizens to report drivers under the influence (PCDD #20)	mean = 2.6	not at all	1	2	3	4	5	fully

48. What obstacles have been encountered in getting citizens, businesses and other organizations to participate in efforts to reduce drunk driving in your state?  
 1) general societal tolerance of drinking and driving; failure to recognize the problem  
 2) little incentive to become involved; difficult to motivate people to get involved  
 3) lack of funding, manpower, or resources
49. How seriously do you believe the general public in your state treats the issue of drunk driving?  
 mean = 3.5    not seriously    1    2    3    4    5    very seriously
50. What impact have citizen activists had in your state in the following drunk driving areas:
- |            |                    |           |   |   |   |   |   |              |
|------------|--------------------|-----------|---|---|---|---|---|--------------|
| mean = 3.9 | legislation        | no impact | 1 | 2 | 3 | 4 | 5 | great impact |
| mean = 3.6 | public information | no impact | 1 | 2 | 3 | 4 | 5 | great impact |
| mean = 3.2 | enforcement        | no impact | 1 | 2 | 3 | 4 | 5 | great impact |
| mean = 3.2 | prosecution        | no impact | 1 | 2 | 3 | 4 | 5 | great impact |
| mean = 3.0 | adjudication       | no impact | 1 | 2 | 3 | 4 | 5 | great impact |
| mean = 3.0 | sentencing         | no impact | 1 | 2 | 3 | 4 | 5 | great impact |
51. How active are the following citizen groups in your state?
- |                            |      |              |   |   |   |   |   |             |
|----------------------------|------|--------------|---|---|---|---|---|-------------|
| mean = 4.0                 | MADD | do not exist | 1 | 2 | 3 | 4 | 5 | very active |
| mean = 3.5                 | SADD | do not exist | 1 | 2 | 3 | 4 | 5 | very active |
| mean = 2.0                 | RID  | do not exist | 1 | 2 | 3 | 4 | 5 | very active |
| OTHER (specify) mean = 3.9 |      | do not exist | 1 | 2 | 3 | 4 | 5 | very active |
52. How would you characterize the trend since 1983 in the size, influence and public visibility of citizen groups like MADD, RID and SADD in your state?
- |                    |            |            |                    |
|--------------------|------------|------------|--------------------|
|                    | increasing | decreasing | remaining the same |
| size of membership | 67%        | 14%        | 19%                |
| influence          | 59%        | 18%        | 23%                |
| public visibility  | 58%        | 21%        | 21%                |
53. What problems have such citizen activist groups encountered?  
 1) lack of funds  
 2) declining public interest; lack of public interest  
 3) lack of professional image; negative image; extreme positions turn off public; seen as self-righteous crusaders; too emotional; seek excessively severe penalties

54. What else is required to increase the level of citizen involvement in your state?

- 1) increased public awareness; greater publicity and media attention
- 2) devise incentives to get people involved; active recruitment; membership drives
- 3) increased funding

## ORGANIZATION AND STATE COORDINATION

To what extent have the following recommendations of the Presidential Commission on Drunk Driving been implemented?

State-sponsored and coordinated public information campaign (PCDD # 1)	mean = 3.3	not at all	1	2	3	4	5	fully
Single state agency designated to coordinate public information programs (PCDD #2)	mean = 2.8	not at all	1	2	3	4	5	fully
Creation of state and local task forces devoted to combatting drunk driving (PCDD #12)	mean = 3.2	not at all	1	2	3	4	5	fully
Adoption of reporting system to track offenders from arrest through completion of assignment (PCDD # 14)	mean = 2.8	not at all	1	2	3	4	5	fully
Establishment by the state of standards, criteria and review procedures for alcohol education, treatment and community service programs for DUI offenders (PCDD # 39)	mean = 3.2	not at all	1	2	3	4	5	fully
Development of on-going statewide evaluation system by the state to ensure program quality and effectiveness (PCDD #39)	mean = 2.9	not at all	1	2	3	4	5	fully

55. What obstacles have been encountered in establishing the state's leadership and coordinative roles?

- 1) turf battles; lack of coordination; overlapping jurisdictions
- 2) lack of resources, manpower, or funding
- 3) no single agency has taken the lead; lack of leadership

56. How seriously do top state officials treat the issue of drunk driving?

mean = 3.8    not seriously    1    2    3    4    5    very seriously

57. Does your state currently have a drunk driving task force?

53% yes    47% no

58. If you have a task force, how active is it?

mean = 3.4    no activity    1    2    3    4    5    very active

59. If your state has had a drunk driving task force, how effective was it?

mean = 3.5    ineffective    1    2    3    4    5    very effective

60. What else would assist the state to develop its role as a catalyst for change in the area of drunk driving programs and countermeasures?

- 1) additional resources, manpower, or funding
- 2) create or reestablish State Drunk Driving Task Force; encourage local task forces
- 3) support of key state officials

## FEDERAL ACTIVITY

61. What federal activities have helped your state combat drunk driving?

- 1) federal funding
- 2) training programs and technical assistance
- 3) publicity; media campaign; 3 D Week promotional materials

62. What federal activities have hindered your state in combatting drunk driving?

- 1) none
- 2) cut backs in federal funding or lack of federal funding
- 3) lack of flexibility in meeting federal funding criteria

63. What federal activities would help you?

- 1) more funding
- 2) more flexibility in meeting federal funding criteria
- 3) more mandatory compliance requirements; federal withholding of funds; more federal legislation

## REFLECTIONS ON THE DRUNK DRIVING SITUATION

64. What would you consider to be the five most important steps to be taken to reduce DWI in your state?
- 1) increased enforcement including greater use of sobriety checkpoints
  - 2) public education including classroom education for youth
  - 3) stricter laws and harsher penalties; greater certainty of punishment
  - 4) greater media attention and publicity; public information campaigns
  - 5) assessment and treatment; mandatory assessment, better treatment, greater funding for treatment
65. What do you see as the major obstacles to be overcome?
- 1) public apathy; failure to recognize the problem; social attitudes toward drinking
  - 2) lack of funding and manpower
  - 3) lack of support from lawmakers and/or administration
66. How would you summarize the current status of drunk driving measures in your state?
- 7% suggested the situation was excellent; 21% suggested it was good; 36% suggested that it was adequate but with more that needs to be done; 9% suggested it was in need of improvement; 5% suggested there were serious problems; 11% suggested the situation is improving
67. Looking ahead to the years 1990-2000, what new national, regional, state, or local programs would you recommend?
- 1) increased emphasis on prevention and education
  - 2) measures to address the problem drinker including increased focus on treatment
  - 3) stricter enforcement and prosecution

### Please complete the following:

Respondent's state: \_\_\_\_\_

Respondent's profession (check one)

<u>5%</u> alcohol control	<u>6%</u> court system	<u>6%</u> licensing	<u>6%</u> education
<u>10%</u> alcohol treatment	<u>16%</u> law enforcement	<u>7%</u> media	<u>1%</u> legislature
<u>6%</u> citizen activist	<u>7%</u> legal	<u>23%</u> traffic safety	<u>6%</u> other

### PHASE II... We Need Your Help!

The next phase of our assessment project will consist of telephone interviews with a limited number of respondents to ask them follow-up questions and obtain their views on what our priorities should be in the next five years. Like this questionnaire, the results of the telephone interviews will be strictly confidential.

Would you be available for a half-hour telephone interview in the upcoming months to answer a few questions about your views on drunk driving?

76% Yes                      24% No

If you would be available for an interview, please provide us with the following information:

Name \_\_\_\_\_ Title: \_\_\_\_\_

Organization \_\_\_\_\_ Telephone: \_\_\_\_\_

Return Survey to:  
**National Commission Against Drunk Driving**  
 1140 Connecticut Avenue N.W., Suite 804  
 Washington, D.C. 20036

**APPENDIX 7**

**Assessment Project Advisory Committee**



# NATIONAL COMMISSION AGAINST DRUNK DRIVING

## Assessment Project Advisory Committee

Ms. Rory Benson  
Vice-President and Special Assistant  
to the President  
National Association of Broadcasters  
1771 N Street, N.W.  
Washington, D.C. 20036  
202-529-5446

Mr. John Lacey  
Program Manager, Alcohol Studies  
University of North Carolina  
Highway Safety Research Center  
CB 3430  
Chapel Hill, North Carolina 27599  
919-962-2202

Mr. Vince Burgess  
Administrator  
Division of Motor Vehicles  
Commonwealth of Virginia  
2300 W. Broad  
Richmond, Virginia 23220  
804-367-8140

Ms. Nancy Lick  
Director of Curriculum  
National Conference of Juvenile  
and Family Court Judges  
University of Reno  
Post Office Box 8970  
Reno, Nevada 89507  
702-784-4989

Mr. William Butynski  
Executive Director  
National Association of State Alcohol  
and Drug Abuse Directors (NASADAD)  
444 North Capitol Street  
Washington, D.C. 20001  
202-783-6868

Mr. Chuck Livingston  
Highway Users Federation  
1776 Massachusetts Avenue, N.W.  
Washington, D.C. 20036  
202-857-1234

Dr. Frank Kenel  
Director of Traffic Safety  
American Automobile Association  
8111 Gatehouse Road  
Falls Church, Virginia 22047  
703-222-6621

Mr. Marc H. Rosenberg  
Vice President - Federal Affairs  
Insurance Information Institute  
1101 17th Street, N.W.  
Suite 408  
Washington, D.C. 20036  
202-833-1580

Mr. Robert Kirk  
Manager  
Social Research and Education  
Distilled Spirits Council of the US  
1250 Eye Street, Suite 900  
Washington, D.C. 20005

Ms. Mickey Sadoff  
President  
Mothers Against Drunk Driving  
250 Conventry Drive  
Milwaukee, Wisconsin 53217  
414-352-6388

The Honorable Albert L. Kramer  
District Court Department  
Quincy Division  
1 Dennis Ryan Parkway  
Quincy, Massachusetts 02169  
617-471-1650

Mr. Steve Schmidt  
Executive Director  
Pennsylvania DUI Association  
933 Rose Street  
Harrisburg, Pennsylvania 17102  
717-238-4354

Mr. John E. Shafer, Jr.  
Consumer Affairs Manager  
Miller Brewing Company  
3939 West Highland Blvd.  
Milwaukee, Wisconsin 53201  
414-931-4284

Chief Judge Roy Willett  
23rd Judicial Circuit of Virginia  
Post Office Box 211  
Roanoke, Virginia 24002  
703-981-2437

First Sgt. T. William Tower  
DWI Coordinator  
Maryland State Police  
1201 Reisterstown Road  
Pikesville, Maryland 21208  
301-653-4387

Mr. John Moulden  
Assistant to the Vice-Chairman  
National Transportation Safety Board  
800 Independence Ave., S.W.  
Room 820  
Washington, D.C. 20594

Dr. Vincent D. Pisani  
Rush-Presbyterian - St. Luke's Medical Center  
5309 West Devon Street  
Chicago, IL 60646  
312-631-7053

#### National Highway Traffic Safety Administration Participants

Ms. Janet Johnson  
Program Analyst  
NHTSA  
400 7th Street, SW; Room 5125  
Washington, D.C. 20590  
202-366-2759

Dr. James Nichols  
Deputy for Science and Technology  
NHTSA  
400 7th Street, SW; Room 5130  
Washington, D.C. 20590  
202-366-9581

Mr. James Fell  
Program Manager  
Fatal Accident Reporting System (FARS)  
NHTSA  
400 7th Street, SW  
Washington, D.C. 20590  
202-366-5382

Mr. Steve Hatos  
Highway Safety Specialist  
Ofc of Alcohol and State Programs  
NHTSA  
400 7th Street, SW; Room 5130  
Washington, D.C. 20590  
202-366-2729

#### National Commission Against Drunk Driving Participants

Mr. V.J. Adduci  
Chairman, NCADD

Dr. John Grant  
Program Director, NCADD

Dr. David Anderson  
Project Consultant  
1000 N. Arlington Mill Drive  
Arlington, Virginia 22205  
703-764-6449

Mr. David Bragdon  
Project Manager, NCADD

## APPENDIX 8

### Advisory Committee Meeting Agenda

On September 8, 1989 the member of the Assessment Project Advisory Committee met in Washington, D.C. to offer their input and discuss the project findings. The agenda for that meeting is included here.

Assessment Project Advisory Committee Meeting  
September 8, 1989

A G E N D A

- 9:00 - 9:15 Welcome by Jim Adduci and self-introductions
- 9:15 - 9:45 Overview of project and summary of survey responses
- NHTSA Perspective - Janet Johnson/Jim Nichols
- NCADD Perspective - John Grant
- Project Methodology - David Anderson
- Summary of the agenda - David Bragdon
- 9:45 - 10:15 Presentation on FARS drunk driving statistics, 1983-88  
Jim Fell, Program Manager, Fatal Accident Reporting System
- 10:15 - 10:30 Presentation on drunk driving legislation, 1983-88  
Steve Hatos, Highway Safety Specialist, NHTSA
- 10:30 - 10:45 Break
- 10:45 - 11:15 Discussion of responses to the PCDD Questionnaire
- 11:15 - 11:45 Small group discussions
- Group 1 - Legislative; Federal Activity
- Group 2 - Enforcement
- Group 3 - Prosecution and Adjudication
- 11:45 - 12:30 Reports on small group discussions
- 12:30 - 1:00 Lunch
- 1:00 - 1:30 Small group discussions
- Group 1 - Licensing
- Group 2 - Organization and State Coordination;  
Citizen Involvement
- Group 3 - Public Information; Prevention Activities; Youth
- 1:30 - 2:15 Reports on small group discussions
- 2:15 - 3:00 General discussion
- 3:00 - 3:15 Break
- 3:15 - 4:00 Continuation of general discussion and development of proposed  
recommendations
- 4:00 - 4:30 Rank proposed recommendations and select top 5 priority measures
- 4:30 Adjournment

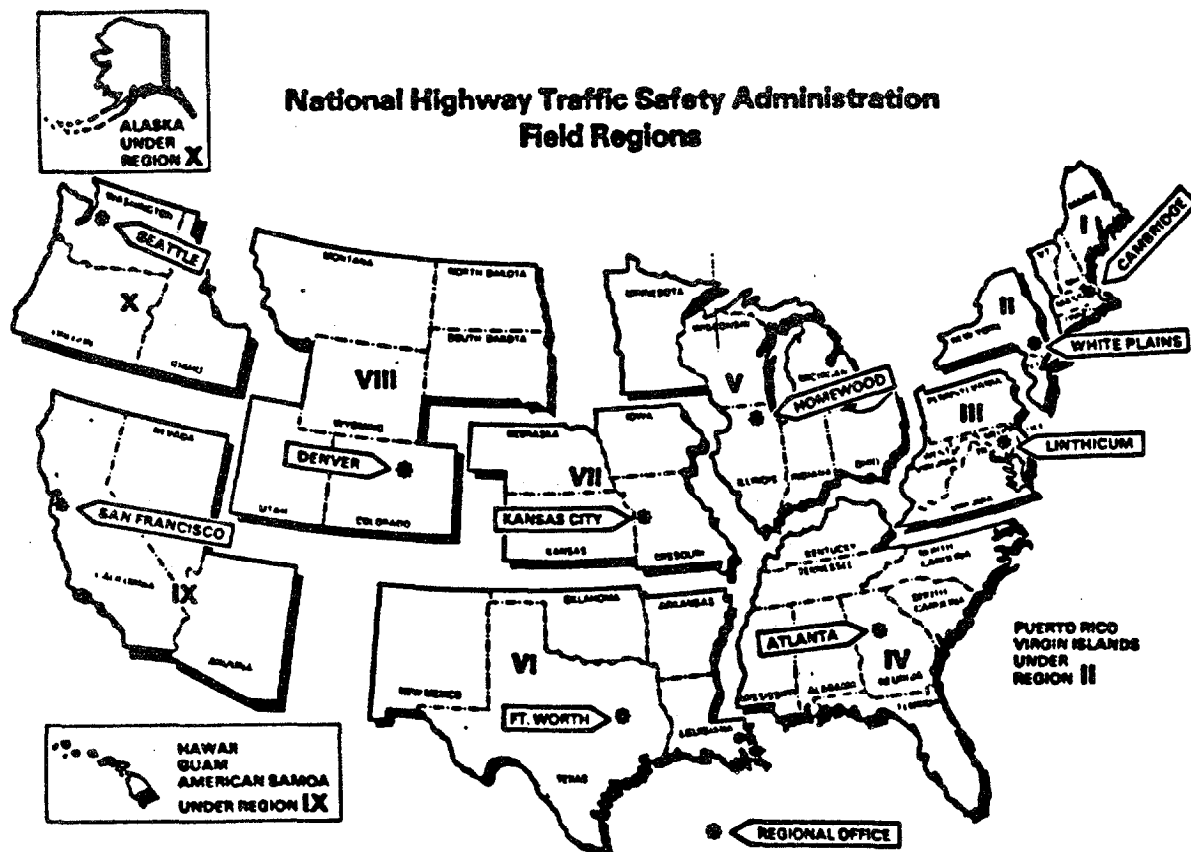


## APPENDIX 9

### Statistical Profiles of 10 Selected States

The third phase of our project consisted of a series of interviews with state officials in 10 representative states. In choosing which states to concentrate on, the NCADD staff examined the statistical data from all 50 states. After a preliminary review of all data, it was decided to focus on only those states which had tested at least 70 percent of their fatally injured drivers in both 1983 and 1987, the two years chosen for comparison purposes. States were further distinguished between those that had consistently tested over 80 percent of their deceased drivers and those that tested between 70 and 80 percent.

Calculations were made of the percentage change in the number of alcohol-related fatalities between 1983 and 1987, along with the percentage change in total fatalities for those same years. These figures were then adjusted for driver license population changes, and the results charted. On the basis of these figures, the 10 states were chosen. The map included in this appendix lists the 10 states, along with a thumbnail sketch of their alcohol-related fatalities per 100,000 drivers in both 1983 and 1989.



		1983	1987	Alcohol Related Fatalities/100,000 Drivers
Region 1	- VERMONT	17.5	17.4	bad and unchanged
Region 2	- NEW JERSEY	7.2	5.6	good and improving
Region 3	- PENNSYLVANIA	8.3	11.4	good but getting worse
Region 4	- N. CAROLINA	14.8	17.8	bad and getting worse
Region 5	- MINNESOTA	11.8	8.7	improved from average to good
Region 6	- NEW MEXICO	32.9	29.0	worst; improving slightly but still worse
Region 7	- NEBRASKA	9.5	11.1	good but getting worse
Region 8	- COLORADO	16.8	11.7	improved greatly from bad to average
Region 9	- CALIFORNIA	13.5	13.8	below average and unchanged
Region 10	- OREGON	13.8	12.7	average and improving slightly

Alcohol-Related Fatalities per 100,000 Licensed Drivers, 1987	Percentage Change in Alcohol-Related Fatalities per 100,000 Drivers 1983 - 1987	Percentage Change in Alcohol-Related Fatalities 1983 - 1987	Percentage Change in Total Traffic Fatalities 1983 - 1987
5.6 NJ	-33.2% VT	-27.8% CO	-25.3% VT
7.8 NY	-30.4% CO	-25.9% SD	-23.4% SD
8.6 UT	-26.3% NM	-23.2% NM	-18.2% NT
8.7 NM	-26.1% SD	-17.4% NT	-8.5% CO
9.2 IL	-25.3% NH	-15.7% NH	-6.3% NH
9.2 MA	-22.2% NJ	-14.5% NJ	-4.5% NM
9.6 CT	-19.6% HI	-12.1% HI	-1.4% HI
10.2 MD	-15.7% MI	-11.8% MI	-----
10.8 ND	-11.9% MN	-6.0% IL	3.6% NV
10.9 MN	-11.3% UT	-3.3% UT	4.6% UT
11.1 ND	-8.0% IL	-2.2% KY	7.0% NM
11.3 MI	-8.0% OR	-1.5% OR	8.5% KY
11.4 PA	-7.8% KY	-0.5% WV	8.8% IL
11.7 CO	-5.5% TN	-----	9.8% NJ
11.7 IN	-5.1% NV	0.8% NV	9.9% MI
11.7 VA	-3.8% ND	1.3% TN	10.8% WV
12.0 AK	-2.3% MA	4.1% ND	11.7% MA
12.3 ME	-0.6% DE	6.0% DE	12.8% OR
12.4 ID	-0.6% VT	8.2% MA	13.3% VA
12.7 HI	-----	11.1% VT	15.5% PA
12.7 OR	1.7% VA	11.5% VA	16.5% ND
13.0 SD	2.0% GA	13.8% CA	20.3% TN
13.0 MA	2.2% CA	14.4% ND	20.4% CA
13.8 CA	7.9% WV	16.1% GA	24.1% ND
15.0 GA	16.8% ND	19.4% NM	23.4% GA
15.3 KY	20.3% NC	31.2% NC	28.4% NC
15.4 DE	37.3% PA	42.4% PA	32.7% DE
16.3 WV			
16.9 ID			
17.3 TN			
17.4 VT			
17.8 NC			
18.5 NV			
23.5 MT			
29.0 NM			

## **APPENDIX 10**

### **Interview Excerpts**

The following excerpts were taken from a series of 26 transcribed telephone interviews conducted by the NCADD staff in December 1989. The interviewees were promised confidentiality, and thus there are no attributions.

## REGION I - VERMONT

The major obstacle is the rural nature of the state. According to HUD criteria, VT is the most rural state in the country. In the past few decades, VT has begun to change its economic base from farming to manufacturing. Consequently, people are becoming far more dependent on their cars to carry them to and from work in the cities. The days when people stayed and worked on the farm, traveling into town only once a week for supplies, are passing. With no public transportation, cars are essential. Consequently, the legislature is reluctant to pass stiff laws establishing license sanctions for DWI.

Penalties other than license sanctions might work - community service is one possibility. While alternative penalties might deter the social drinker, they probably would not deter the problem drinker. Recidivism is a real problem. While not wanting to minimize the contribution made by the social drinker, the heart of the issue is how to deter the problem drinker. He didn't have any solutions for how to combat recidivism.

Asked where we ought to put our scarce resources, he stated that enforcement is the key to reducing drunk driving. It is the threat of enforcement that changes people's behavior.

When asked about problems which impede efforts to reduce drunk driving in Vermont, he pointed to two factors:

- 1) VT is a rural state and it is impossible to live in VT without a license. Therefore driving on a suspended license (DSL) is a serious problem.
- 2) VT has many resort areas and an influx of tourists who increase the drunk driving statistics. Enforcement is beefed up at times such as the Christmas holidays and New Year when there are a lot of tourists who may drink and drive.

VT has passed a couple of new laws this past year which should be helpful.

- 1) the authorization of the use of infrared breath testing devices instead of the old gas chromatography. This will speed up the breath testing process. Formerly, it took 3-4 weeks to get back the test results of a chemical test. The new law should boost enforcement, since police will be able to get an immediate readout of the offenders BAC. In the past the police would make an arrest and take the offender to be tested, but they would not know the test results and therefore not know whether their suspicion was correct.
- 2) new legislation to require mandatory alcohol assessment. Also mandatory sign off by treatment counselors before the license of a DWI offender is renewed.

When asked whether the court system was overburdened, he said that it was barely functioning. Defense lawyers advise their clients to appeal decisions since license suspensions are stayed until the appeals process is exhausted, thereby creating a backlog of cases. Judges moreover are not sympathetic to the prosecution. Convicting a drunk driver is made all the more difficult because the State Supreme Court has ruled that the prosecutor's experts must calculate the driver's BAC back to the time when he was operating the motor vehicle. In order to calculate the BAC at the time of arrest, the police must ferret out additional information such as the time of the last drink and the amount consumed. First time offenders may answer these questions, but recidivists know that they are better off not answering any questions (which is what their defense attorneys counsel them to do.) Without the offender's cooperation, it is much more difficult to obtain a conviction.

## Region I - Vermont (cont.)

There is no real funding shortage in VT for DWI. The Governor has been very supportive of the issue. If anything the issue just needs greater publicity, although there has been a fair amount of publicity accompanying the debate and passage of the new laws.

## REGION II - NEW JERSEY

In NJ traffic offenses including DWI are not considered criminal offenses. Cases are heard in municipal courts. The municipal court system is a unified system under the review of the state Supreme Court. Since cases are heard in municipal courts, one avoids the problems such as jury trials associated with a criminal court docket. A directive from the Chief Justice prohibits plea bargaining in DWI cases. There is only one charge for drunk driving, no two-tier system such as in NY. Therefore there is no encouragement to try to get charges pleaded down to the lower offense. The per se level is set at .10 and presumptive at .05. All penalties are mandatory: license suspension, alcohol assessment and treatment if warranted; a \$100 drunk driving surcharge; a \$1000/year insurance surcharge for three years. The insurance surcharge is collected by the DMV and goes to an assigned risk pool for joint underwriting of drivers. There are no hardship licenses.

The state's conviction rate is 85% - pretty high.

In 1989 NJ had a total of 880 highway fatalities; of these only 176 or 20% were alcohol-related. NJ has traditionally had a low percentage of alcohol-related fatalities and low overall fatality rate. In 1986, 87, and 88 the number of total fatalities rose. In 1989 the number of total fatalities dropped 17% from 1988.

When asked what might account for the large decrease in fatalities in 1989, he said it might partly be attributed to the mandatory safety belt law, the effects of which are just beginning to be felt. There has also been a continued effect of the Age 21 law. Finally, there have been improvements in the emergency medical treatment and the use of helicopter medivac.

There is a strong correlation between arrests and drunk driving. In the early 1980's 402 funds were used to pay for additional enforcement. In 1984 arrests decreased and the incidence of drunk driving increased. Recently arrests have again begun to increase and consequently drunk driving is decreasing. Active visible enforcement is the single most important factor.

When asked whether NJ has a problem with drivers who continue to drive on suspended licenses, he said that studies indicate that those whose licenses are suspended for DWI don't have a high incidence of violating the suspension. In contrast, those whose licenses are suspended for other violations, such as lack of insurance, continue to drive at a much higher rate.

A hard license suspension is essential. There is no deterrent value in a hardship licenses that continue to allow offenders to drive.

## Region II - New Jersey (cont.)

Much of the money for alcohol and traffic safety programs comes from a state tax on alcohol beverages. This money is dedicated revenue. The tax raises about \$11 million each year. 85% of the money goes to counties for enforcement, treatment and counseling. (Each county has an approved health facility.) 10% of tax goes into a Drunk Driving Enforcement Fund to pay for enforcement. This amounts to about \$1.1 million/year. This money is in addition to the money generated from the \$100 surcharge per drunk driver which also is channeled into this fund. 5% of the tax revenue goes to the Court Assistance Fund to support the administrative office of the courts and municipal courts. This amounts to about \$600,000/year.

When asked how he felt about alcohol advertising, he stated that he does believe that advertising encourages people to drink, though he was uncertain whether he would support any action against advertisers.

He strongly supported an increased tax on alcohol beverages that would be treated as a user fee and earmarked for enforcement, treatment, and court expenses. He believes that taxes at the federal level are unrealistically low. If 10% of the population drinks 50% of the alcohol beverages sold, they are going to need treatment for alcoholism and other medical problems associated with alcohol.

When asked what factors he believes contribute to NJ's success in combatting drunk driving, he stated its success was due in part to the fact that NJ is an organized state. Geographically, it is a small state with only 21 counties, and this permits the state to do more central planning. One problem that faces NY or PA is that they permit the counties too much autonomy. Treatment in NJ, for instance, started with a single model for the entire state. Treatment programs are successful, moreover, because they have a stable funding source and are not dependent on appropriations from the state legislature. Treatment is largely funded through client fees: each client is charged \$80. There are in addition DWI surcharges of \$100 for a first offense and \$200 for a second offense, and a portion of this money is devoted to funding treatment.

NJ's success can also be attributed to the fact that the state limits judicial discretion. All the judge does in DWI cases is set the specific penalty with a range of fines and license sanctions. Evaluation is mandatory.

The state is helped by a strong Supreme Court that supports drunk driving countermeasures. The courts in NJ are tough. There are no jury trials.

Judicial education is also very good and is provided through the Administrative Office of the Courts. Training is important because municipal judges change every three years in NJ. Training therefore needs to be provided every year.

Every state needs to mandate drug/alcohol evaluations for DWI offenders. In NJ a judicial order is given at the time of the assessment mandating treatment if the evaluation indicates a need for it. There is no need to go back to the judge with the results of the assessment. There is also a need for tight relationships between the courts and the treatment providers to compel compliance. NJ is developing a computer tie-in with the courts. Computerization has brought mixed results. One problem is that there is not enough money to hire data entry processors. It has taken a couple of years to enter the back data. The state has also met with resistance at the county level - computer phobia.

## Region II - New Jersey (cont.)

One negative change is that judges and defense lawyers are more likely to challenge the DWI system and seek to weaken it now than in past years. The climate seems to be changing; where once DWI was somewhat sacrosanct, now it is becoming acceptable to try to challenge. The State Supreme Court has been pretty good about knocking down challenges by defense attorneys, and perhaps because of their lack of success in challenging things like checkpoints, defense attorneys have no other strategy now than to challenge treatment.

When asked what programs or countermeasures deserved highest priority, the recommendations were:

- 1) Concentrate on enacting state laws that remove or limit judicial discretion. Mandate alcohol evaluations. Include in the legislation guidelines on how to write regulations governing treatment and treatment referral criteria.
- 2) Establish a system to track cases so that one can identify who did the alcohol evaluation, what program the offender attended, whether the offender completed the program, and whether the offender recidivated.

To summarize, he believed NJ's success could be attributed to 1) good laws, 2) good enforcement, and 3) a good public information campaign.

When asked how he felt about NJ's system of adjudicating DWI offenses in the Municipal courts, he argued that it is better handled here than in the criminal courts. When DWI is criminalized, it becomes a fairly unimportant crime in the Criminal courts compared to murder, rape, etc. By keeping it in the Municipal courts, it retains high priority and is recognized as a serious offense - the big fish in the little pond syndrome. In NJ DWI is recognized by the general public as a serious offense, and therefore handling these cases in the Municipal Court does not downgrade its seriousness.

When asked what programs or countermeasures he believed deserved highest priority, two were cited:

- 1) self-sufficiency legislation to fund enforcement, education and treatment programs. This item is of crucial importance.
- 2) tougher safety belt laws; in NJ legislation will be introduced to make safety belt use mandatory for all passengers in all vehicles.

## REGION III - PENNSYLVANIA

Model DUI Comprehensive Programs - PA established model programs in 14 or 15 counties (out of 67) which utilized central intake centers where DUI arrestees could be brought, dropped off, video taped, tested, and booked, thus eliminating officer down time and relieving officers of the need to go to court.

In evaluating these programs it was found that they were very successful in getting people involved and successful in increasing the arrest rate. The programs were also successfully institutionalized. Only 1 of the original 14 or 15 model programs is not still in existence. However, no corresponding decline in alcohol-related fatalities occurred. Although the state had planned on expanding the program beyond the original 14 counties, these plans were dropped after the evaluations. Instead the state decided to reevaluate its plan and take a second look at what might work.



### Region III - Pennsylvania (cont.)

Now the programs integrate safety belts, motorcycle safety, bikes, pedestrians, alcohol and safe driving characteristics. (The latter program focuses on special populations - youth, elderly, habitual offenders.) The alcohol program activities that dealt with arresting, processing, and record-keeping are being incorporated into the one program.

The second change that occurred was the initiation of a new program, Corridor, supported by both the Governor and state legislature. This program began with a study of roads in PA to determine which roads had the greatest frequency of crashes. 100 stretches of highway (or corridors) were identified, and 50 of these targetted for activity. The idea is for state officials and even members of the legislature to go to the counties or municipalities in which these corridors are located and encourage them to participate in the program. All the key local players are brought together. The state is willing to provide money for overtime, training, and equipment if the localities agree to participate and make traffic safety a priority. \$50 million has been set aside for the program.

One major problem in the past has been the lack of enforcement. Checkpoints have not been used by either the state police or local law enforcement agencies. PA has one of the lowest arrest rates of any state and a very low rate of contact with motorists. He believes that the low rate is attributable to the attitude within the state police. They were offered training and PBT equipment, but were not interested in it. Only recently has that changed. This month the state police are beginning to employ sobriety checkpoints, with administrative procedures approved by the Attorney General's office. They have been trained and provided with equipment. Part of the funding for this came from NHTSA, and in exchange the state police agreed to train local enforcement officials and conduct joint checkpoints with them.

The state has also mounted a new P.R. campaign - "Stop the Slaughter" - using both state and federal funds. Its theme focuses on everyone's responsibility to intervene in situations where someone else may drink and drive. It also informs people how they can promote a responsible environment within their own social circle.

A hard look needs to be taken at linkage between the criminal justice system and the health system. Treatment needs to be backed up by the power of the court in order to ensure compliance.

According to the respondent, few juvenile violations appear in the courts. The reason, he said, is because police feel that license suspensions for possession of alcohol are too severe. This has led to a decrease in arrests. There is also a lot of paperwork involved in arresting a juvenile DWI.

To address the problem of enforcing juvenile possession and DWI laws, he recommended a two-tier offense, with mere possession violations receiving a lesser punishment than violations involving a motor vehicle.

In summarizing his priorities, he reiterated the need for:

- 1) high rate of enforcement
- 2) coordination between courts and treatment
- 3) strong emphasis on youth education
- 4) changing the environment to discourage drunk driving.

## REGION IV - NORTH CAROLINA

State officials remain committed to the problem of DWI. If the crash fatalities continue to rise, it is not because state officials remain unconcerned about the problem. Last year the Governor held 9 public hearings to obtain recommendations about what still needed to be done to combat drunk driving. The state legislature also held hearings on DWI. The Governor proposed legislation which was considerably more stringent than the package proposed by the House. The House legislation is still pending this session, although the Senate bill must be reintroduced.

The hearings held by the Governor and the legislature offered many recommendations. Among them were: 1) lengthen the period of administrative suspension from 10 days to 30 hard days; 2) eliminate the statutory provision requiring two breath tests; 3) lower BAC to .08.

When asked whether a State DWI Task Force would help to keep the issue in the forefront, it was noted that NC has an Injury Prevention Task Force that encompasses the issue of drunk driving. This Task Force brings a whole host of new allies into the camp: EMT technicians, doctors, nurses, etc. After several years, a DWI Task Force may feel that it has little more to contribute to the problem. If states cannot get together a DWI Task Force, an Injury Prevention T.F. is one way to keep attention on the problem.

When asked whether she thought that recidivism posed a problem in NC, she said that she thought it did. Operation Eagle revealed that a high number of people in NC are driving on suspended licenses or without any license at all. For instance, on April 7-8, 1989 there were 107 arrests; of these 20 were found driving on a suspended or revoked license. On another day there were 256 arrests; 30 were caught driving on a suspended license, and 40 were found driving without any license.

To address the problem of driving on a suspended license, police need an on-board computer system that would enable them to check the license status of anyone stopped for any traffic offense. Such a system exists in both Florida and Dekalb County, GA where it works well. The cost would be about \$200,000 for the computer in the main office and \$1250 for instrumentation in each patrol car.

When asked what could be done to combat the problem of recidivism, she expressed her belief that we must teach people to look after one another. Friends and family must take care of those who drink; servers need to become responsible in their service of alcohol. She expressed scepticism with the effectiveness of treatment. There are adequate education and treatment facilities in NC; the problem is in changing the behavior of those who repeat the offense.

When asked to identify the major obstacles that impede drunk driving efforts in NC, she identified:

- 1) overburdened court system
- 2) competition for limited law enforcement resources

When asked what else needed to be done, she emphasized making it easier to arrest, convict, and sentence DWI offenders. Great strides have been made in dealing with drug offenders; their property readily can be seized. We need to do something similar in the cases of DWI. For DWI the system still works in favor of the offender.

#### Region IV - North Carolina (cont.)

She also stated that states need to revisit their DWI laws. Most states made changes in 1982-83. Since then many changes have taken place. Drug laws have come into effect and could serve as a model. Defense attorneys and offenders have found ways to defeat the law and create systems problems. In light of these developments, we need to reexamine our laws and approaches.

NC has an innovative law enforcement program, Operation Eagle. It is a cooperative DWI operation involving the state police, sheriffs, and ABC officers. They go into a county for 2 nights and send undercover agents into bars looking for sales to minors and intoxicated patrons. It has been highly publicized and caught 105 DWI's in 2 nights. Citizen activist groups participated in the operation; they ride with officers and will track the cases of those arrested through the court system. They will publish the results of their followup in 2 counties in a report. The advantage of this program is that it brings all law enforcement agencies together, as well as citizen activists. The officers like having citizen support for their efforts.

One of the main obstacles to impede drunk driving efforts is what is known as a Prayer for Judgment Continued (PJC) which allows judges not to enter a judgment on a case.

When asked for their opinion on the use of license plate confiscation and auto impoundment, they stated that NC has a law permitting Auto Confiscation for second offense driving on a revoked license. However, the law has been applied only once. There is a similar law for drug traffickers.

When asked to give a general assessment of the drunk driving situation, they said that in general enforcement is excellent. The breakdown is in the court system and the imposition of penalties. What is needed is more mandatory sentences. We need to take discretion away from the judges.

When asked about the influence of alcohol advertising, they responded that they thought it was a real problem. We need to celebrate sobriety. If the industry doesn't police itself, advertising should be banned. Advertising is obviously slanted toward the youth market.

When asked how they felt about a designated tax on alcohol beverages, they expressed support for increased taxes. They believe taxes should be equalized between types of beverages and raised at both the state and federal levels. Because of the lobby, the license to sell beer in NC is \$100 for a lifetime license. In contrast, the license to sell ice cream is \$100 each year. The licensing fee for liquor cannot even cover the cost of enforcement.

One area in need of improvement is ABC enforcement officers. They are the poor stepchild of law enforcement.

When asked what else needed to be done in NC, they responded:

- 1) ban all open containers in NC; currently only wine and liquor are banned under the open container law, not beer.
- 2) build a statewide coalition of citizen groups
- 3) massive public support is essential
- 4) a public information campaign to send out the message that the car can be a deadly weapon; it is not an extension of lesser transportation modes like a bike or skateboard. Young drivers need to be made aware of this.

## REGION V - MINNESOTA

Two major obstacles exist to further reductions in DWI:

- 1) lack of financial resources to increase the apprehension rate;
- 2) lack of resources for treatment of low-income offenders, since state funding is being cut back.

These two obstacles correspond to the two populations of offenders:

- 1) social drinkers who have control over their behavior and can be dissuaded from drunk driving through public information, increased enforcement and fear of apprehension;
- 2) repeat offenders who are not effectively dissuaded through education or deterred by enforcement; they need treatment - although even under the best circumstances, treatment is only successful 40-50% of the time. Treatment has very real limits; its not like setting a broken bone. It is difficult to identify and treat offenders.

Recidivism - long jail doesn't work to curb recidivism. We have to do a better job of appropriate sentencing, especially better treatment.

One area deserving greater attention is intensive probation.

Sentences for recidivists need to include mandatory treatment, mandatory aftercare, and mandatory probation on a weekly basis for 4-5 years to ensure that they maintain aftercare. This approach probably wouldn't cost any more than long-term incarceration.

Lowering the BAC to .08 would be helpful in a limited way. It would facilitate prosecution and it would also send a clear message that drivers must drink less. .10 is too high - most average drinkers wouldn't even reach it in a night of drinking.

In MN there is not a problem with overburdened prosecutors and judges because only a small fraction of the cases go to trial. Administrative revocation laws robbed offenders of much of their incentive for requesting a trial.

One of the most important steps that MN has taken in recent years is to criminalize test refusals. The law went into effect on August 1, 1989, making a refusal a gross misdemeanor. About 6 other states have such a law. According to judges and prosecutors, the most likely cases to go to trial are repeat offenders who refuse a test. Since the results of their field sobriety tests are often passable and since their prior records are not available to the jury, they are often not convicted. With the new law, the state only has to prove that the driver was offered and refused the test to kick in the same penalties as would apply had he failed the test. Police are delighted with the new law, since they were frustrated with their inability to turn a conviction on repeat offenders who refuse. He recommends this law highly; it isn't high profile, but it doesn't cost anything to implement.

He supports some restrictions on alcohol advertising. Advertising reflects society's attitude toward alcohol consumption, and encourages young people to drink. Because it is so heavily associated with sports and because sports in America are so much a part of male identity, he believes that some restrictions should be imposed on endorsements by alcohol manufacturers of sporting events. Restrictions on alcohol advertising could be constitutional because of the 21st amendment which gives states the right to regulate or prohibit the sale of alcohol.

Region V - Minnesota (cont.)

When asked where our focus should be, three recommendations were offered:

- 1) more money should be spent at the front end to apprehend individuals and increase deterrence rather than at the back end to jail them;
- 2) accurate diagnosis of alcohol problems;
- 3) treatment for repeat offenders.

Alcohol-related fatalities are down in MN. They attribute MN's success to its front-runner approach on some issues, e.g. license revocation, license plate confiscation. MN is willing to adopt innovative approaches.

The use of sobriety checkpoints are about the same today as they were in past years. They have brought about a decrease in drunk driving through their deterrent effect on the social drinker, but they have nearly run up against their limit; most of the drivers capable of being deterred have been deterred. The remaining problem is with the problem drinker.

They do not believe that MN will move to restrict the issuance of hardship licenses. In order to encourage the legislature to pass an administrative per se law, the administration consented that hardship licenses would be available to offenders. They do not believe that the state DMV would want to go back on its word and modify this regulation. The state begrudges the fact that they don't qualify for 408 funds because of the lack of hard hardship licenses since it feels that MN has a good anti-DWI program and does not need hard license suspensions for first time offenders.

One reason for MN's success is that the media in the state are interested in traffic safety and give it airtime.

When asked about obstacles impeding drunk driving efforts in MN, the respondent identified:

- 1) the lack of resources for law enforcement and the judiciary
- 2) the problem of recidivism.

The judiciary is well-trained in MN about DWI. Each year the State Supreme Court convenes a meeting for judges to inform them of developments in case law and changes in the statutes.

There are also Continuing Legal Education courses attended by defense lawyers, judges, prosecutors, and law enforcement officers. After each legislative session updates are given.

In addition the Bureau of Criminal Apprehension, a branch of the Dept. of Public Safety, offers 6-7 training sessions per year for law enforcement officers.

When asked whether he would like to see the adoption of hard license suspensions in MN, he said no; he was highly supportive of the use of hardship licenses. When asked for his opinion on other sanctions, he expressed support for community service. He was not supportive of the use of jail; he did not believe that it was effective and, moreover, the jails were already overcrowded. Because of overcrowding, counties have moved away from mandatory jail sentences. Two courts do tie jail to DWI education programs. The move away from jail does not constitute a problem since he doesn't believe that it is that effective.

## Region V - Minnesota (cont.)

He was supportive of taxes on alcohol beverages, although he believed that taxes ought to be imposed at the wholesale level and not the retail level.

When asked whether he felt alcohol advertising had any effect on drunk driving, he stated that he did not believe there was any correlation. He would not support any legislation to regulate advertising.

When asked what he felt were the most important elements in MN's programs, he identified: 1) mandatory alcohol evaluations, 2) administrative license suspensions, and 3) public information.

## REGION VI - NEW MEXICO

NM's drunk driving situation is tied to its tri-cultural configuration. No alcohol is sold on Indian reservations, so Indians must come into border towns like Gallup to buy liquor. The roads leading from these towns into the reservations have high crash rates.

There is great awareness of the problems of alcoholism and drunk driving. Last legislative session there was a march to Santa Fe by Indians to draw attention to the problem. One result of the march was that drive-up liquor service in one county neighboring an Indian reservation was ended.

NM has many laws on the books, but has experienced problems in implementing the laws. Many of these problems are due to its nature as a rural state. Police officers, for example, have great difficulty in making a drunk driving arrest. If they detect a drunk driver, they have a couple of options: they can jaw bone the offender and let him go; they can throw his keys in the bushes, assuming that he won't be able to find them until dawn; or they can take the time to wait for someone to come and pick up the offender's car, bring him to the nearest station (often an hour drive), take an hour completing the paper work. For many officers, a DWI may not be worth the trouble.

A problem also exists with unlicensed drivers in Hispanic enclaves in the mountains. They live a remote life and may not bother to obtain a license or have much to do with the civil authorities in the towns.

The Navaho want to obtain their own driver licensing system. A battle is brewing over this issue since car registration is an instrument of revenue in the form of registration fees.

What offers the best hope of success? Initiatives that come from the community and that have local support. 402 funds have been used to foster community-building activities.

## REGION VII - NEBRASKA

REDDI (Report Every Drunk Driver Immediately) is not being implemented today. It did operate in Lincoln and was funded through the 402 funds; when the funding ended, the police department didn't pick it up, and consequently it died. The police chief in Lincoln at the time did not support traffic operations, although a new chief seems to be more supportive of traffic safety. The program was publicized through local radio stations. He thought that it was a good program.

## Region VII - Nebraska (cont.)

Between 1984-86 a Comprehensive Alcohol Program existed. The crime rate at that time went down as officers focused on drunks. All aspects of the program were self-sufficient except for enforcement, which was the most important of all. When the funding ended, enforcement ended and consequently the program ended.

When asked what he thought our focus ought to be, the respondent identified:

- 1) enforcement
- 2) efficient court system - in Omaha funds have been provided to hire a extra judge and prosecutor to handle DWI cases; when federal funding ended, the city picked up their salaries. This contrasts with the situation in Kansas City, MO where there are 8000 DWI arrests a year, and the courts can't handle the situation so the charges are being reduced.

In discussing model laws, he mentioned a law in Missouri. If a MO youth is stopped for drinking and driving, he loses his license for one year. The youth license is a different color and the word "YOUTH" is written across the face of it. If alterations are attempted, these appear in red. Penalties appear on the back of the license. He likes the concept of Oregon's "Not a Drop Law" which imposes license suspensions on youth who are convicted of illegal alcohol or drug possession.

## REGION VIII - COLORADO

When asked about the general drunk driving situation in CO, he said that it had improved as far as apprehension and prosecution are concerned. The greatest improvement has occurred among young people. In 1986 there were 54 fatalities involving DWI offenders under age 21; in 1988 there were 26 fatalities. Overall, in 1988 39% of all fatals were alcohol-related; in 1983 53% were alcohol-related.

CO has experienced a significant decline in alcohol-related fatalities according to FARS data. When asked for possible reasons for this decline, he identified:

- 1) training given to prosecutors and judges on Standard Field Sobriety Tests and breath testing. (Because of a high turnover among judges, it is necessary to provide training continuously).
- 2) improved laws - use of PBT's, administrative per se, lowering BAC from .15 to .10
- 3) public information and youth education. His office does a lot of work with STAND - Students Taking a New Direction (formerly known as SADD). Project DARE is used in many areas, though more frequently in urban than rural areas. There has been strong support from Coors and Anheuser-Busch. Some retail liquor outlets give special recognition to designated drivers and cut prices of non-alcoholic beverages. Designated drivers are treated like royalty.
- 4) Law Enforcement Assistance Fund (LEAF) - a solely state-funded program that raises money for enforcement from fees collected from drunk drivers. Provides \$1.2 million to local enforcement efforts (not state patrol). Money from this fund is provided in a similar way to 402 funds. About 40 grants are awarded each year to police and sheriff departments. Funding is provided on a 3-year-on, 1-year-off, 3-year-on pattern. 80% of LEAF monies are dispersed through the GR's office; 20% are dispersed through the Alcohol and Drug Abuse Division of the Dept. of Health.

## Region VIII - Colorado (cont.)

When asked about the major obstacles that impede efforts to reduce DWI, he identified:

- 1) legislature reluctant to make further changes in the law after already having changed the law in prior years.
- 2) judges' reviews of sobriety checkpoints; a vocal minority is opposed to their use;

When asked how efficiently the state's Administrative Review (for license suspensions on a DWI charge) operated, he declared that it worked fairly efficiently but that with statutory changes it could be more efficient. Much money has been spent on training for hearing officers. He would like to see a reduction in the queuing time between arrest and administrative license suspension. However, the 15 day 410 criteria is unrealistic unless without vastly more DMV personnel and funds for training.

40% of those with license suspensions continue to drive. To combat this would require new legislation authorizing, for instance, license plate confiscation for second offense.

We are entering a new era with regard to drunk driving. In the early 1980's a lot of new laws went into effect. Then for several years activity subsided. These days public awareness is again increasing and societal tolerance for drunk driving decreasing. We are making progress. The issue is highly visible.

Priority items for CO, would be:

- 1) .08 per se/ .04 presumptive
- 2) 0.0 for youth
- 3) continued training for prosecutors and judges
- 4) efforts to make enforcement more efficient
- 5) shorter delays in administratively suspending licenses
- 6) K-12 and college education

When asked how serious the problem of recidivism is, she said that recidivism is a problem, but not a major problem. To combat recidivism, she recommended longer license revocation for multiple offenders.

CO has a habitual traffic offender law and most habitual traffic offenses are alcohol-related. Despite the fact that a habitual offense is considered a felony, most courts don't treat it as a serious offense.

When asked what she would consider priority areas, she identified:

- 1) swift license sanction
- 2) education and treatment for offenders
- 3) fines
- 4) jail

## REGION IX - CALIFORNIA

The biggest developments are the new laws authorizing administrative suspension and lowering the BAC to .08. The regulations governing admin seizures have not yet resolved whether officers will have to attend the hearings in person. Personally, he believes that .08 will help, so long as the law is publicized and enforcement remains visible.



Region IX - California (cont.)

When asked whether lowering the BAC to .08 would place an intolerable burden upon the courts, he declared that they already are in a difficult position but that he thought they would be able to handle the case load.

Court procedures represent a major drain on an officer's time. Each time a case appears before a court, the officer has to appear. At most trials, an officer will have to make multiple appearances, because the defense attorneys intentionally ask for multiple continuances, hoping that an officer won't be able to appear, thereby getting the case dismissed.

It is important that we make the public aware that impairment begins well before .10. With an .04 level for trucks, general public awareness of impairment may increase.

There is an excellent public information campaign regarding designated drivers.

Funds for PR come from proceeds resulting from drug forfeitures.

When asked about the use of interlock devices, he said that there is some use of them. Cost is the primary issue that is always raised when talk turns to their use; questions are raised about who will pay for the cost of those offenders who cannot afford them. Personally, he would be willing to expand their use and give them a try. The quality of the product has improved in recent years; some types are not easily defeatable.

Car impoundment is practiced in CA for driving on a suspended license. The car is impounded, not forfeited. Initially, such action was seldom taken; now impoundment is more widespread. It is worth giving this sanction additional publicity because it is not widely known.

In CA the police can impound the car administratively; it is not necessary to obtain a court order. The problem is that there must be proof that the offender was aware that his license had been suspended. The courts must have accurately noted that the defendant was given notification of the suspension. Because of poor or incomplete court recording, proof of notification is not always available. In that case, the officer provides the offender with written notification on the spot and warns him that driving under suspension carries the penalty of car impoundment.

In the 1989 there was a high level of publicity and a resurgence of interest in DWI in the state legislature. Media attention consequently followed. 1982 was the year in which there was a lot of hoopla about combatting drunk driving; 1989 was the year in which the CA legislature actually did something about it.

The new administrative license suspension carries a suspension period of 4 months. There are two possible cases for issuing hardship licenses. Commercial drivers can obtain a hardship license after 30 days suspension, so long as the DWI arrest did not involve their commercial vehicle. Offenders who are assigned to treatment can also apply after 30 days for a limited license to drive to the treatment. He admits that both of these exceptions may weaken the law, but they also make some sense.

Sobriety checkpoints have been greatly emphasized by the State Police. Though they don't result in as many arrests as roving patrols, they achieve a greater deterrent effect. The emphasis these days has shifted toward general deterrence.

## Region IX - California (cont.)

In general, judges in CA have wide discretionary powers. There is a feeling that sentences should be tailored to the individual offender. Personally, he would like to see more mandatory penalties, but politically this would be difficult to accomplish. The political climate in the state leaves many powers to the counties, including administering the court system. This decentralized system is tied to funding. In 1978 Proposition 13 cut county funding dramatically. Any bill that is passed in the state legislature must pass before the Finance Committee. If a bill mandates action by the counties and is going to cost the counties money, the state legislature is under an informal understanding to provide funding to the counties. Therefore, most bills passed in the legislature refrain from compelling the counties to act; instead they leave leeway for counties to act if they so choose, thereby eliminating the need for the state to provide funds for the new program or law. In the fiscally conservative atmosphere of the 1980's, the only bills which pass in the legislature are bills which leave a lot of discretion to local counties.

In the late 1970's CA adopted the treatment approach to DWI and poured much money into DWI schools for first offenders and treatment programs for multiple offenders. This approach clearly did not work. When MADD came on the scene, they added jail penalties. No one, however, emphasized the importance of suspending licenses. Finally, CA has implemented license suspensions. He likes the formulation of priorities within the 408 criteria: license sanctions most important, followed by jail.

In 1986 the CA legislature passed the Emergency Response Cost Recovery Act, a law which authorized public agencies to recover the cost of emergency services resulting from the use of alcohol and drugs.

The CA Office of Traffic Safety is doing a study on interlock devices which is being funded by NHTSA.

He is not sure that banning alcohol ads would do much to reduce the public's exposure. He could see the advisability, however, of establishing a set of standards for television advertising of alcoholic beverages. If intervention occurs, it ought to occur here: to prevent manufacturers from marketing alcohol to those under age 21. He would like to see industry standards. Some colleges are banning advertising on campuses. State universities could ban this. There is a move on CA college campuses to rid them of alcohol advertisements. This is one area which should be given more attention.

## REGION X - OREGON

In 1988 there were 2 major changes in the law:

- 1) A law was passed requiring administrative license suspension for any driver under the age of 18 who tests positive for alcohol (0.0 BAC). He hopes that this can be amended in the future so that the age is raised to drivers under 21.
- 2) a provisional license law requiring DWI offenders under the age of 18 to lose their driving privilege to age 18, unless the current suspension would be longer.

He would like to see a standard illegal per se of .04, not just for truck drivers but for all drivers. He believes that it is feasible, and that it would possess great deterrent value. If we can increase the level of deterrence, we can cut back on our funding for enforcement and court system personnel. Deterrence, however, requires good public information campaigns.

Region X - Oregon (cont.)

To combat driving on a suspended license, we need more jail space. Jail is the only real deterrent.

A law was passed last year which will enable an arresting officer to place a sticker on the license plate of a vehicle whose driver is caught driving on a suspended or revoked license where the underlying charge was DUI.

He suggested one area that needs to be addressed is the subject of driver license compact between states. The Driver License Compact does not deal with administrative suspensions. Everything is based on convictions. Only states with special agreements exchange any information on administrative action or suspensions based on refusals. This problem will be addressed with respect to truck drivers when the Commercial Driver Act takes effect. We need, however, to get to the concept of 1 license/driver with respect to regular drivers. Driver records need to follow a driver from one state to another.

When asked to identify the major obstacles which impede efforts to reduce drunk driving, the respondent identified:

- 1) saliency - when an arrestee is brought to justice soon after the incident, treatment is likely to be much more successful than if treatment does not begin until long after the incidence, e.g. after a long court case. The same principle seems to be true with drug offenders undergoing treatment. If one throws an offender in jail the first time drugs are detected in his urine, there is less likelihood that the offender will relapse into drug use than if one gave him a second or third chance before throwing him in jail.
- 2) we have not done a good job evaluating what works and what does not work in combatting drunk driving.
- 3) judges - mandatory sentences are not mandatory; justices of the peace in particular do not follow mandatory sentence requirements. To cite one example, judges in one county were fining DWI offenders but not requiring them to undergo an alcohol assessment or treatment.

On his survey, he expressed his opposition to designated driver and safe rides programs. When asked about the grounds for his objection, he responded that people who support designated driver programs have blinders on; they refuse to see the full extent of the alcohol problem. People who commit DUI don't just drive drunk; they also beat wives, cause fires, and break bones when intoxicated. Instead of designated drivers, we need to promote the idea that intoxication per se is bad. This idea must especially be emphasized among high school and college students.

In campaigning to end drunk driving, we should take a look at the cigarette campaign and how it achieved success. Perhaps there will have to be intermediary steps like advocating designated driver programs, but if so, we ought to emphasize that these types of programs are merely intermediary steps: they do not solve the problem of drunkenness. If we choose to advocate such measures, we should be aware that our efforts may have negative effects, for these programs may enable some people to keep drinking when they should stop.

When asked whether he thinks alcohol advertising has any effect on drunk driving, he replied that he thinks we are kidding ourselves if we deny that advertising has an effect. When asked what he would like to see done, he advocated that we at least demand equal time for pro-health messages.

Region X - Oregon (cont.)

The primary obstacle in OR is lack of enforcement. In the past decade the state police have been cut in half: from more than 700 to 370 officers. Local police and sheriffs enforce drunk driving laws, but their presence is not enough.

The shortage of state police is not due to financial hardship but, rather, to some very peculiar provisions of the state's constitution. There was an economic downturn some years ago and that did effect staffing, but now the state is in the midst of an economic boom time. This year the state will have a budget surplus of \$200 million. Due to the state constitution, however, it cannot be spent. The constitution limits both state budget growth and the number of state employees. State employees can number no more than 1.5% of the state population. Therefore, if the state chooses to add new programs and new staff, it must cut staff and funds from other programs. In recent years, the state police have been hard hit by cuts. Reprioritization means that even when the revenue exists to hire new state police, the money cannot be spent, but instead must be returned to the taxpayers. Self-funding programs such as NY has in place would not help, since even if the money is collected it cannot be spent.

The lack of enforcement personnel has been compounded by a State Supreme Court decision ruling that sobriety checkpoints are illegal.

In addition to the lack of enforcement, efforts to reduce drunk driving are hindered by judges. Judges are under tremendous pressure from defense attorneys to be lenient to offenders. The solution is to make as many actions as possible administrative. "Whenever we think of a new program, we try to make it administrative. The courts have had many things dumped on them over the years that they should not have had." He suggested that the NCADD could play an important role in encouraging administrative license sanctions, thereby, taking license actions out of the courts.

Washington and Oregon both have license plate sticker laws. This authorizes police to apply a small sticker (not more than a couple of inches in size) to the license plate of vehicles whose driver has been caught driving on a suspended license. It is not designed to be a Scarlet A but to give police probable cause for stopping the car in the future to see whether the driver is operating without a license.

When asked whether he had any recommendations on how to combat recidivism, he declared that recidivism usually involves driving on a suspended license. Therefore, to combat recidivism we must make the penalty for DLS intolerably high. Driving on a suspended license where the underlying charge is DWI should be a felony offense, punishable by jail.

We also need a system of administrative penalties. He believes that these ought to include 1) license plate confiscation; 2) car impoundment; 3) car forfeiture.

When asked about programs or laws that could serve as models to other states, he pointed to:

1) OR's Denial Law for youth. In OR the 0.0 BAC applies to youth under age 18; if other states enact a similar law they should make the law apply to everyone under 21, even though it can be difficult to enforce a no-drinking statute among 18-21 year olds.

Region X - Oregon (cont.)

- 2) Buddy Law - in OR if someone is hit by a drunk driver who has a passenger in the car, the civil suit is brought against both the driver and the passenger. "Buddies" can be responsible for the drinking of those they ride with.
- 3) Mandatory server training law - working very well in OR, although its operation is made easier by the fact that OR is a control state.
- 4) Electronic bracelet - OR was the second state (after FL) to pass a law authorizing home incarceration.
- 5) Victim Impact Panels - funded by a \$5.00 charge levied on each drunk driver. That amount really isn't enough to cover the costs of the program. If other states were to adopt the program, he would recommend a charge of \$10-20 per offender. The major expense is to pay for the presence of a uniformed sheriff's deputy. MADD has developed a manual on how to organize a Victim's Panel.
- 6) Ignition Interlock - mandatory for any driver who wants to obtain a hardship license after the initial period of "hard" suspension for DUI. It is also mandatory for all DUI offenders for 6 months following their suspension if they want to get their license back.
- 7) Ban on plea bargaining - when you allow plea bargaining, you give away a bargaining chip. In OR the ban works. DUI is not lowered to non-alcohol charges. Fewer people asked for a jury trial before the ban than afterwards; before the ban, defense attorneys attempted to swamp the system by encouraging their clients to ask for a jury trial in the hope of forcing prosecutors to cut a deal because of case overload. Now, that strategy doesn't work. There is no point in asking for a jury trial because the system has integrity. One will never achieve integrity so long as plea bargaining can occur.
- 8) Lower BAC to .08 per se for adults, 0.0 for youth. 0.0 is the only level that makes sense for those under 21; .02 is ambiguous; not many people know what a .02 means. It's easier to understand the idea of "not a drop."
- 9) State Task Force or some permanent committee to deal with drunk driving.

OR has encountered a few problems in implementing these recommended countermeasures:

- 1) the interlock requirement has created the greatest controversy, largely because of the cost it entails for the offender;
- 2) also some problems with seizing vehicles co-owned by the offender and another person. Cars not owned by an offender can be seized if it can be proved that the owner "knew or should have known" that the offender has had his license suspended or revoked. Judges have had some problem in determining what constitutes "knew or should have known."

When asked what else remained to be done, he declared that we need to tap into the revenues generated by alcohol taxes. Public attitude is changing. It is time to raise taxes at both the state and federal levels and to designate that money to alcohol programs.

In OR a small amount of the tax on beer and wine goes to pay for treatment programs, but nothing goes to pay for enforcement or the criminal justice system. NY and UT both have very good programs that channel money directly into these areas.





